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## **U.S. Department of State**

### **China Country Report on Human Rights Practices for 1998**

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#### **CHINA**

The People's Republic of China (PRC) is an authoritarian state in which the Chinese Communist Party (CCP) is the paramount source of power. At the national and regional levels, party members hold almost all top government, police, and military positions. Ultimate authority rests with members of the Politburo. Leaders stress the need to maintain stability and social order and are committed to perpetuating the rule of the CCP and its hierarchy. Citizens lack both the freedom peacefully to express opposition to the party-led political system and the right to change their national leaders or form of government. Socialism continues to provide the theoretical underpinning of Chinese politics, but Marxist ideology has given way to economic pragmatism in recent years, and economic decentralization has increased the authority of regional officials. The party's authority rests primarily on the Government's ability to maintain social stability, appeals to nationalism and patriotism, party control of personnel and the security apparatus, and the continued improvement in the living standards of most of China's 1.2 billion citizens. The Constitution provides for an independent judiciary; however, in practice, the judicial system is subject to the "policy guidance" of the CCP and government influence, particularly in politically sensitive cases.

The security apparatus is made up of the Ministries of State Security and Public Security, the People's Armed Police, the People's Liberation Army, and the state judicial, procuratorial, and penal systems. Security policy and personnel were responsible for numerous human rights abuses.

China has a mixed economy that continues to expand, albeit at a slower rate than in recent years. The growth rate target was 8.0 percent for 1998. According to official government statistics gross domestic product reached a growth rate of 7.8 percent, but the actual figure was widely considered to be between 3 and 5 percent. The economy faces growing problems, including state enterprise reform, unemployment, underemployment, and regional economic disparities. Rural unemployment and underemployment is estimated to be over 30 percent. Tens of millions of peasants have left their homes in search of better jobs and living conditions. Demographers estimate that between 80 and 130 million persons make up this "floating population," with many major cities counting 1 million or more such persons. Urban areas also are coping with millions of state workers idled on partial wages or unemployed as a result of industrial reforms. Workers throughout the country increasingly organized public protests to press their demands. Nonetheless, economic reforms have raised living standards for many, providing greater independence for entrepreneurs, diminishing state control over the economy and citizen's daily lives, and creating new economic opportunities. Despite serious economic difficulties in the state sector, individual economic opportunities expanded in nonstate

sectors, resulting in increased freedom of employment and mobility. The total number of citizens living in absolute poverty continues to decline; estimates range from official figures of 42 million to World Bank estimates of 150 million. However, the income gap between coastal and internal regions is growing markedly. The ratio is now approximately 12 to 1.

The Government's human rights record deteriorated sharply beginning in the final months of the year with a crackdown against organized political dissent. The loosening of restrictions on political debate and activism by authorities for much of 1997 and 1998, including toward public calls for political reform and expressions of opposition to government policies, abruptly ended in the fall. The Government continued to commit widespread and well-documented human rights abuses, in violation of internationally accepted norms. These abuses stemmed from the authorities' very limited tolerance of public dissent aimed at the Government, fear of unrest, and the limited scope or inadequate implementation of laws protecting basic freedoms. The Constitution and laws provide for fundamental human rights, but these protections often are ignored in practice. Abuses included instances of extrajudicial killings, torture and mistreatment of prisoners, forced confessions, arbitrary arrest and detention, lengthy incommunicado detention, and denial of due process. Prison conditions at most facilities remained harsh. In many cases, particularly sensitive political cases, the judicial system denies criminal defendants basic legal safeguards and due process because authorities attach higher priority to maintaining public order and suppressing political opposition than to enforcing legal norms. The Government infringed on citizens' privacy rights. The Government continued restrictions on freedom of speech and of the press, and tightened these toward the end of the year. The Government severely restricted freedom of assembly, and continued to restrict freedom of association, religion, and movement. Discrimination against women, minorities, and the disabled; violence against women, including coercive family planning practices--which sometimes include forced abortion and forced sterilization; prostitution, trafficking in women and children, and the abuse of children all are problems. The Government continued to restrict tightly worker rights, and forced labor remains a problem. Serious human rights abuses persisted in minority areas, including Tibet and Xinjiang, where restrictions on religion and other fundamental freedoms intensified.

Beginning in the fall, Communist Party leaders moved to "nip in the bud" organized challenges they believed threatened national stability or Communist Party authority. Dozens of political activists were arrested for attempts to register a political party and engage in other political activities. In November over 30 members and supporters of the China Democracy Party were detained, and, in December, three of its leaders were sentenced to lengthy jail terms, apparently as a warning to other activists. Veteran dissidents Xu Wenli, Wang Youcui, and Qin Yongmin were tried under the law on state security for their attempts to organize and register the CDP as an opposition party and for allegedly colluding with foreign forces to "subvert state power." They were given harsh sentences of 13, 11, and 12 years, respectively, in closed trials that flagrantly violated due process. Also in November and December, the authorities imposed new regulations on the Internet, the publishing industry, and social organizations; closed several newspapers and fired several outspoken editors; and banned a popular, but politically-sensitive, book and other publications. The China Development Union, an independent group in Beijing, which had organized discussions on a wide range of topical issues, including political reform, had its activities curtailed in November and was eventually shut down.

Unapproved religious groups, including Protestant and Catholic groups, continued to experience varying degrees of official interference and repression. The Government continued to enforce 1994 State Council regulations requiring all places of religious activity to register with the Government and come under the supervision of official, "patriotic" religious organizations. There were significant differences from region to region, and even locality to locality, in the attitudes of government

officials toward religion. In some areas, authorities guided by national policy made strong efforts to control the activities of unapproved Catholic and Protestant churches; religious services were broken up and church leaders or adherents were detained and, at times, reportedly beaten. At year's end, some remained in prison because of their religious activities. In other regions, registered and unregistered churches were treated similarly by the authorities. Citizens worshiping in officially sanctioned churches, mosques, and temples reported little or no day-to-day interference by the Government. The number of religious adherents in many churches, both registered and unregistered, continued to grow at a rapid pace. The Government engaged in discussions of religious freedom issues with the international community, welcoming several high-level foreign delegations.

Although the Government denies that it holds political or religious prisoners, and argues that all those in prison are legitimately serving sentences for crimes under the law, an unknown number of persons, estimated at several thousand, are detained in violation of international human rights instruments for peacefully expressing their political, religious, or social views. Persons detained at times during the year include political activists who tried to register an opposition party; leaders of a national house church movement; and organizers of political discussion groups that exceeded what the Government deemed the permissible level of dissent. Some minority groups, particularly Tibetan Buddhists and Muslim Uyghurs, came under increasing pressure as the Government clamped down on dissent and "separatist" activities. In Tibet the reeducation campaign aimed at monks and nuns was renewed, as was a rhetorical campaign against the Dalai Lama. In Xinjiang, authorities tightened restrictions on fundamental freedoms in an effort to control independence groups.

The Government took some actions to address international concerns in the area of human rights. In October it signed the United Nations Covenant on Civil and Political Rights (ICCPR), but gave no indication when the covenant would be ratified. In September the United Nations High Commissioner for Human Rights (UNHCHR) visited for the first time at the invitation of the Government. The Government also continued to expand its human rights dialogs and exchanges with other nations, and in October hosted for the first time an international human rights conference in Beijing.

The authorities released a few political prisoners before their terms were over. Tiananmen student leader Wang Dan was released on medical parole in April on the condition that he leave the country for medical treatment. Liu Nianchun was released under the same conditions in December. Both are now living abroad in exile. Catholic Bishop Zeng Jingmu and democracy activist Pan Mingdong were released on medical parole before the end of their terms and remained in China. Bishop Zeng was reportedly under house arrest at year's end. Zhang Xiaoxu was paroled 6 years early, after having served 9 years of his 15-year sentence for involvement in the 1989 student protests. However, at year's end several thousand others, including Li Hai, Han Chunsheng, Liu Jingsheng, Chen Lantao, Liu Xiaobo, Chen Longde, Pastor Xu Yongze, Bishop An Shuxin, Abbot Chadrel Rinpoche, Ngawang Sangdrol, Jigme Sangpo, and Ngawang Choephel remained in prison for the peaceful expression of their political, social, or religious views. Some of those who completed their sentences and were released from prison--such as Bao Tong, senior aide to former Communist Party leaders--were kept under surveillance and prevented from taking employment or otherwise resuming normal lives.

During the year, the Government launched new efforts to reform the legal system and widely disseminated information about new legislation. It also initiated a highly publicized campaign to "rectify" endemic problems such as corruption and abuse of power on the part of judges, prosecutors, and police. A number of laws passed in recent years, if enforced effectively, hold the potential to enhance citizens' rights--e.g., the Administrative Litigation Law, the Lawyers Law, the State

Compensation Law, the Prison Law, the Criminal Law, and the Criminal Procedure Law. The revised Criminal Procedure Law, which came into effect in 1997, provided for the defendant's right to legal counsel, an active legal defense, and other rights of criminal defendants recognized in international human rights instruments. If fully implemented, this law would bring China's criminal laws closer toward compliance with international norms. However, enforcement of the new statute was uneven and incomplete and was violated in the cases of high-profile dissidents. In an effort to strengthen enforcement, the Government issued additional, more specific implementing guidelines. The Government also expanded efforts to educate lawyers, judges, prosecutors, and especially the public on the provisions of new statutes. China expanded its efforts to increase bilateral and multilateral cooperation in the field of law.

In addition, some positive trends continued. The leadership continued governmental restructuring efforts and took steps to create a more accountable and less intrusive government (under the firm leadership of the Communist Party). The range of issues covered in the media--especially regarding corruption and abuse of power--continued to expand. New initiatives were undertaken to improve the transparency and accountability of China's judicial and legal systems; nongovernmental-level village committee elections were expanded, giving citizens choices about grassroots representatives, as well as introducing the principle of democratic elections; and at least one experiment with township elections was conducted successfully (albeit not approved in advance by the central Government). Government efforts to separate the military and the Communist Party from commercial ventures proceeded, as did campaigns against government corruption and smuggling. Social groups with economic resources at their disposal continued to play an increasing role in community life.

Despite the sharp crackdown on political dissent at the end of the year, society as a whole continued to be more open and diverse. Academics and government officials continued to debate formerly taboo subjects such as political reform and democratization in official channels. Satellite television broadcasts continued to be widely available, particularly in coastal provinces, despite the Government's efforts to regulate the sale and use of satellite dishes. Cable television also is available in many cities, including access to global news networks. As many as 6 million citizens had access to the Internet, although the Government increased its efforts to try to control the content of material available on the Internet. Overall, average citizens go about their daily lives with more personal freedom than ever before: Higher disposable income, looser economic controls, greater freedom of movement, increased access to outside sources of information, greater room for individual choice, and more diversity in cultural life. However, authorities did not hesitate to move quickly against those it perceived to be a threat to government power or national stability. Citizens who seek to express openly dissenting political and religious views continue to live in an environment filled with repression.

## **RESPECT FOR HUMAN RIGHTS**

### **Section 1 Respect for the Integrity of the Person, Including Freedom From:**

#### **a. Political and Other Extrajudicial Killing**

The official press reported a number of instances of extrajudicial killings, but no nationwide statistics are available. For example, the media reported that a police officer, who murdered a local official in September, was tried and sentenced to death. The case was cited as part of a nationwide crackdown on police corruption and abuses (see Section 1.c.).

The families of three suspects, who had died while in police custody, wrote to UNHCHR Mary

Robinson during her September visit. One of the victims, Zhou Guiyi, was found dead in a Hebei police detention center in April with wounds over most of his body. Another, Xiao Beizhou, died in a hospital in January after being beaten by police with batons, his family said. According to the Tibet Information Network (TIN), 32 Tibetan political prisoners died in detention during the years 1987-1998 (see Tibet addendum).

There continued to be numerous executions carried out after summary trials, although the number of death sentences was significantly less than in 1997. Such trials can occur under circumstances where the lack of due process protections borders on extrajudicial killing (see Section 1.e.). On December 3, according to the Legal Daily, the Xinjiang Higher People's Court sentenced 15 persons to death; the executions reportedly were carried out immediately after the judgments were handed down.

**In March the China Youth Daily reported that three prosecutors in Fuzhou had tortured a prisoner with boiling water and beat him to death in 1996 while trying to force him to confess (see Section 1.c.). The prosecutors were tried by a local court and given sentences ranging from 12 to 15 years in prison.**

There were a number of bombings and killings of policemen in Xinjiang by Uyghur separatist groups (see Section 5).

b. Disappearance

There were no new reports of disappearances. However, the Government still has not provided a comprehensive, credible accounting of those missing or detained in connection with the suppression of the 1989 Tiananmen demonstrations. Long incommunicado detentions continued, although there were fewer reports than in 1997 (see Section 1.d.).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits torture; however, police and other elements of the security apparatus employed torture or degrading treatment in dealing with detainees and prisoners. Former detainees and the press have reported credibly that officials used electric shocks, prolonged periods of solitary confinement, incommunicado detention, beatings, shackles, and other forms of abuse against detained men and women. Prominent dissident Liu Nianchun, who was released in December, reported that guards used an electric stun gun on him. Persons detained pending trial were particularly at risk during pretrial detention due to systemic weaknesses in the legal system or lack of implementation of the revised Criminal Law and Criminal Procedure Law.

In May a Canadian television network broadcast footage shot in October 1997 and April of prisoners being beaten during interrogations at a Shanghai police station. A foreign prisoner in Chinese custody reported in May that he had been beaten and kicked by police. According to a press report, in February a Yunnan court overturned a verdict in which a young farmer had been sentenced to death for murder based upon a false confession extracted by police using torture. The victim said that the police had tied his hands with a wet rope, forced him to kneel, and beat him for 5 hours. Another falsely accused suspect in the case said that he had been given no water during 5 days of interrogation. According to the newspaper article, the torture victims each were compensated approximately \$3,000 (24,835.5 rmb). Three prosecutors who tortured and beat a prisoner to death in 1996 were sentenced to prison terms (see Section 1.a.). In March the China Youth Daily reported that three prosecutors in Fuzhou had tortured a prisoner with boiling water and beat him to death in 1996. The three were tried and given sentences ranging from 12 to 15 years in prison (see Section 1.a.).

Authorities reportedly tortured and otherwise abused a Roman Catholic priest (see Section 2.c.), an allegation the Government denied. There were reports of instances when the police beat worshipers at house churches (see Section 2.c.); and there were reports that police beat protestors (see Section 2.b.).

The Government has stated that "the Chinese judiciary deals with every complaint of torture promptly after it is filed, and those found guilty are punished according to law." Guangdong provincial authorities said in August that they had investigated and prosecuted 507 Communist party cadres and policemen who had violated the law, including those guilty of offenses such as extorting confession by torture and unlawful detention of suspects. As part of its campaign to address police abuse, the Government for the first time published national torture statistics, along with 99 case studies, in a volume called, "The Law Against Extorting a Confession by Torture." The book, which was published by the Supreme People's Procuratorate, stated that 126 persons had died during police interrogation in 1993 and 115 in 1994. There was also a noticeable increase in the number of torture cases reported in the official media during the year, although most still are believed to go unreported.

Authorities mounted a nationwide crackdown on police corruption and abuses. The Minister of Public Security in October admitted that some policemen "would never pass the test of power and money" and that they "abuse their authority for personal profit and accept bribes to bend the law." In May the People's Daily reported that 2,000 police officers had been dismissed in Shanxi province since the start of a "rectification" drive in February; however, many police and security officials who are guilty of abuses go unpunished.

Conditions in penal institutions for both political prisoners and common criminals are generally harsh and frequently degrading. According to released political prisoners, it is standard practice for political prisoners to be segregated from each other and placed with common criminals. There are reports that common criminals have beaten political prisoners at the instigation of guards. During a March meeting with the Minister of Justice, one National People's Congress delegate complained of severe overcrowding in her local prison in Guangdong, in which there reportedly was little space for inmates to sit down and two prisoners slept in each bed. China's 1994 Prison Law was designed, in part, to improve treatment of detainees and respect for their legal rights. The Government's stated goal is to convert one-half of the nation's prisons and 150 reeducation-through-labor camps into "modernized, civilized" facilities by the year 2010. According to credible sources, persons held in new "model" prisons receive better treatment than those held in other prison facilities. (For conditions in prisons in Tibet, see the Tibet addendum.)

Adequate, timely medical care for prisoners continues to be a serious problem, despite official assurances that prisoners have the right to prompt medical treatment if they become ill. Nutritional and health conditions can be grim. At year's end, political prisoners who reportedly had difficulties in obtaining medical treatment, despite repeated appeals on their behalf by their families and the international community, included Gao Yu, Chen Lantao, Zhang Shanguang, Chen Longde, Ngawang Sangdrol, and Chadrel Rinpoche. According to one credible report, there have been instances in which women in reeducation-through-labor camps found to be pregnant while serving sentences were forced to submit to abortions (see Section 1.f.).

The Government does not permit independent monitoring of prisons or reeducation-through-labor camps, and prisoners remain largely inaccessible to international human rights organizations. The Government took some steps toward greater transparency in the prison system. Following visits to several Chinese prisons by the U.N. Working Group on Arbitrary Detention in 1997, UNHCHR Robinson also inspected prisons in several cities during her September visit. In May ambassadors from three European Union (EU) member states were allowed to visit Drapchi prison in Lhasa during

a fact-finding trip to Tibet. In February a group of 20 EU representatives were allowed to visit Daxing prison in Beijing as part of the continuing China-EU human rights dialog. There were unconfirmed reports that prisoners who attempted to communicate with observers subsequently were punished or beaten. There was no progress in talks between China and the International Committee of the Red Cross (ICRC) on an agreement for ICRC access to Chinese prisons. The Government continued discussions with a prominent foreign businessman and human rights monitor on prisoner accounting and confirmed its intention to continue doing so. The flow of information from the Ministry of Justice to this monitor slowed noticeably in the latter half of the year; by year's end, information had been provided on 50 of the 100 names submitted on lists in 1995.

#### d. Arbitrary Arrest, Detention, or Exile

Arbitrary arrest and detention remain serious problems. There were fewer reports of long incommunicado detentions than in the previous year. Because the Government tightly controls information, it is impossible accurately to determine the total number of persons subjected to new or continued arbitrary arrest or detention. Amnesty International estimates that approximately 250 persons remain in prisons or labor camps for activities related to the 1989 Tiananmen protests alone. According to estimates, thousands remain incarcerated, charged with other criminal offenses, detained but not charged, or sentenced to reeducation through labor. The international press has reported that there are some 230,000 persons in reeducation-through-labor camps, sentenced to up to 3 years through administrative procedures, not a trial. According to a May Hong Kong report, Beijing dissident Wang Wanxing, who staged a protest in Tiananmen Square in 1992, still was being held in a psychiatric hospital on the outskirts of Beijing. Chen Ziming remained under house arrest at year's end.

The amendments to the Criminal Procedure Law, which came into effect in 1997, represented a significant improvement in the statutes governing arrest and detention. The amendments provide for earlier and greater access for defendants to legal counsel and the abolition of a regulation that allowed summary trials in certain cases involving the death penalty. Under the old system, defendants were not allowed to consult an attorney until 7 days before trial, usually precluding the possibility of mounting an effective defense. The amended law gives most suspects the right to seek legal counsel shortly after their initial detention and interrogation. However, political activists still have significant problems obtaining competent legal representation of their own choosing. In December Wang Youcui was forced to defend himself during his trial because authorities prevented travel by his lawyer. Qin Yongmin also was tried without a lawyer because no lawyer would take his case due to his insistence on pleading innocent; his request that his trial be delayed until he could find a lawyer was denied. Although Xu Wenli was able to hire a lawyer, he was able to meet with him only once before his trial began.

While representing an improvement over past practice, anecdotal evidence suggested that implementation of the new Criminal Procedure Law so far remains uneven and far from complete. In some cases, differing interpretations of the law taken by different judicial and police departments have resulted in contradictory and incomplete implementation. The Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security, Ministry of State Security, the Ministry of Justice, and the Legal Work Committee of the National People's Congress in January issued supplementary, implementing regulations to address some of these weaknesses. During the year, the Government intensified its efforts to educate lawyers, judges, prosecutors, and especially the public on the provisions of the new law. The Deputy Procurator-General announced in October that, on an experimental basis, police and prosecutors would show suspects a card outlining their basic legal rights upon detention. Suspects also would be informed of time limits on investigations, appeal

regulations, and the legal responsibilities of prosecutors, the report said.

Even if fully implemented, the Criminal Procedure Law still would fall short of international standards in many respects. For example, while the statute precludes a presumption of guilt it includes no explicit recognition of the presumption of innocence; has insufficient safeguards against use of evidence gathered through illegal means such as torture; the appeals process fails to provide sufficient avenue for review; and there are inadequate remedies for violations of defendants' rights. However, the law did abolish an often criticized form of pretrial detention known as "shelter and investigation" that allowed police to detain suspects for extended periods without charge.

Nonetheless, in some cases, police unilaterally still can detain a person for up to 37 days before releasing him or formally placing him under arrest. Once a suspect is arrested, the revised law allows police and prosecutors to detain him for months before trial while a case is being "further investigated." Few suspects are released on bail or put in another form of noncustodial detention pending trial. In March poet Chen Dongdong was released after 10 months in police custody. In October a Qingdao court sentenced Shandong dissident Chen Zengxiang to 7 years in prison after he had spent nearly 5 months in a detention center. Chen was convicted at a closed trial of divulging state secrets, during which he was not allowed to be represented by a lawyer.

During the year, as dissidents around the country stepped up their activities, there were more frequent reports of temporary detentions. These incidents ranged from dissidents being questioned by police for a few hours to activists being held for days or weeks especially during politically sensitive periods. Authorities also detained journalists (see Section 2.a.), leaders of unauthorized religious groups and worshipers in house churches (see Section 2.c.), and the relatives of dissidents (see Section 2.a.).

During the March plenary session of the National People's Congress (NPC), Shenzhen resident Miao Xike tried to set up a sign on Tiananmen Square and shout slogans urging greater respect for human rights. He was detained for more than 2 weeks. Numerous activists throughout the country were warned to stay at home during the June 4 anniversary of the 1989 Tiananmen Square crackdown. Liu Lianjun reportedly was detained for 7 days around the time of the anniversary. Prominent dissidents such as Jiang Qisheng, Ding Zilin, Chu Hailan (the wife of jailed labor activist Liu Nianchun), and Ren Wanding were detained for brief periods or had their activities curtailed on more than one occasion. In July more than 20 dissidents who had tried to register an opposition party in Zhejiang were detained. Wang Youcui, who was later arrested in November, was detained for more than 50 days, but others were held for brief periods. Following a similar pattern, numerous dissidents were detained and then released at the time of UNHCHR Robinson's September visit. Authorities continued the practice of inviting dissidents to take "vacations" at sensitive times during the year. Jiang Qisheng and Wei Xiaotao, the brother of Wei Jingsheng, were forced to spend several days each in Public Security Bureau guest houses in the Beijing suburbs during UNHCHR Robinson's visit.

Under the revised Criminal Procedure Law, detained criminal suspects, defendants, their legal representatives, and close relatives are entitled to apply for a guarantor to enable the suspect or defendant to await trial out of custody. In practice, the police, who have sole discretion, usually do not agree. The law also stipulates that authorities must notify a detainee's family or work unit of his detention within 24 hours. In practice, however, timely notification remains a serious problem especially in sensitive political cases. Authorities did not respond to the attempts of the wife of dissident Xu Wenli to determine where Xu was held after his detention or what the charges were against him. Under a sweeping exception, officials need not provide notification if it would "hinder the investigation" of a case. During his 5 months of detention, Chen Zengxiang's family was never

notified formally of his detention. In July Wang Youcai, Lin Hui, Wang Donghai, and several other Zhejiang dissidents were detained for various lengths of time without notification of their families.

In theory, the Administrative Litigation Law of 1989 permits a detainee to challenge the legality of administrative detention, but lack of timely access to legal counsel inhibited the effective use of this law. Persons serving sentences in the criminal justice system can request release under Article 75 of the Criminal Procedure Law or appeal to the Procuratorate, but have no recourse to the courts to challenge the legality or length of criminal detention. In June, the official Xinhua News Agency reported that Beijing prosecutors had found that 143 criminal suspects in the city had been detained illegally for more than 1 year. The procuratorate reportedly ordered 141 of these persons released. There are documented cases in which local officials and business leaders illegally conspired to use detention as a means of exerting pressure in commercial disputes involving Chinese and foreign businessmen. There were also cases in which foreign businessmen had their passports confiscated during such disputes.

The State Compensation Law provides a legal basis for citizens to recover damages for illegal detentions. Although many citizens remain unaware of this 1995 law, there is evidence that it is having growing, if still limited, impact. The Guangzhou City Intermediate Court awarded \$1,150 (9,520.4 rmb) in compensation to Ruan Wenjian, who had been held illegally for a year by police for suspicion in a fraud case. The case was reported widely in the Guangzhou media. The press reported in 1997 a case in Yongshan township, Jiangxi province, in which a 15-year-old girl and her mother took local authorities to court for forcing the girl to undergo a pregnancy test. Citing the girl's "psychological and economic losses," the court ordered the local government to make a formal apology to the girl and pay her \$323 (2,674 rmb) in compensation. Not satisfied with the judgment, the girl's family said that it would file an appeal to seek higher compensation. During the year, the official press ran numerous articles to raise public awareness of recent laws meant to enhance the protection of citizens' rights, including the Criminal Law, Criminal Procedure Law, State Compensation Law, Administrative Procedure Law, and Lawyers Law.

A major flaw of the new Criminal Procedure Law is that it does not address the reeducation-through-labor system, which permits authorities to sentence detainees administratively without trial to terms of 1 to 3 years in labor camps. Local Labor Reeducation Committees, which determine the term of detention, may extend an inmate's sentence for an additional year. There have been cases of individuals successfully appealing their reeducation sentences through the courts, though the exact number of successful cases is unknown. Shanghai activist Wang Tingjin was sentenced to 2 years of reeducation, apparently for meeting with foreign-based dissident Wang Bingzhang during the latter's trip to China in February. In April Anhui dissident Shen Liangqing and Shanghai activist Yang Qinheng were sentenced to 2 years and 3 years of reeducation, respectively, for conducting a series of protests and activities, including making public statements that NPC Chairman Li Peng had "blood on his hands" for his part in the 1989 Tiananmen Square massacre. On December 29, exiled dissidents who had returned illegally to China and engaged in political activities were sentenced to 3 years reeducation through labor on charges that they had visited prostitutes. According to credible reports, these charges were falsified by the authorities. Chen Longde, Liu Xiaobo, and other dissidents remained in labor camps.

The Government also continued to refuse reentry into China by citizens who were dissidents and activists (see Section 2.d.). The Government's denial of permission to some former reeducation-through-labor camp inmates to return to their homes constitutes a form of internal exile (see Section 2.d.).

There were no reports that the Government forcibly exiled citizens; however, Wang Dan and Liu Nianchun were released from prison on medical parole only on the condition that they leave the country for medical treatment (see Section 2.d.).

#### e. Denial of Fair Public Trial

The Constitution states that the courts shall, in accordance with the law, exercise judicial power independently; however, in practice, the judiciary is subject to policy guidance from both the Government and the Communist Party, whose leaders use a variety of means to direct courts on verdicts and sentences in politically sensitive cases. Corruption and conflicts of interest also affect judicial decisionmaking. Judges are appointed by the people's congresses at the corresponding level of the judicial structure, which can result in undue influence by local politicians over the judges they appoint. During a May conference at Beijing University, according to informed sources, it was estimated that more than 70 percent of commercial cases in lower courts were decided according to the wishes of local officials rather than the law. State-run media ran numerous articles calling for an end to such "local protectionism" and the development of a judiciary independent of interference by officials.

The Supreme People's Court (SPC) stands at the apex of the court system, followed in descending order by the higher, intermediate, and basic people's courts. There are special courts for handling military, maritime, and railway transport cases.

During the year, the Government initiated a highly publicized campaign to fix systemic weaknesses in the judicial system and make it more accountable to public scrutiny. The law requires that all trials be held in public, but in practice, many trials are not. In June the Beijing Number 1 Intermediate Court became the first Chinese court to open its trials to the public on an experimental basis, except for those involving state secrets, personal privacy, or minors, as prescribed by law. The exception for cases involving state secrets has been used to keep proceedings closed to the public and even family members in some sensitive cases.

In June the President of the Supreme People's Court, Xiao Yang, called for courts to come under the "supervision" of citizens and the media, and on July 11 state-run television carried the first live broadcast of a trial, a case involving intellectual property. National newspapers gave both events extensive coverage, and numerous editorials highlighted the merits of public trials, including their value as a tool to prevent "lopsided adjudication, lax enforcement of necessary judicial procedures, and prejudicial judgments against the accused." The Government announced in November that all Beijing courts, not just the Number 1 Intermediate Court, would henceforth be open to the public. However, cases involving state secrets, privacy, and minors are excepted. None of the trials of high-profile political activists that took place at the end of the year was open, although family members usually were allowed to attend.

The official Xinhua News Agency reported that between March and August, in response to criticism by NPC delegates, the Government conducted an "unprecedented internal shake-up" of the judiciary in which nearly 5,000 judges and prosecutors were disciplined. Courts reportedly corrected 8,110 misjudged cases, and prosecutors reconsidered 1,125 mishandled criminal offenses. In addition, both the SPC and the Supreme People's Procuratorate (SPP) set up hot lines for the public to report illegal activities by judges and prosecutors. By August there had been 12,000 reports to the SPC hotline, leading to the investigation of nearly 5,000 judges, 4,701 of whom were determined to have behaved improperly, with 131 cases resulting in criminal prosecution. In addition, 1,337 prosecutors were

placed under investigation, 756 were disciplined, and 73 were prosecuted based upon complaints received on the SPP hotline. The President of the SPC and the Procurator General both acknowledged that deep-rooted problems remained and that some courts and prosecutor's offices had not taken the campaign seriously. The media reported in July that Pan Yile, Vice President of the Higher People's Court of Guangxi, was sentenced to 15 years in prison for accepting bribes.

Police and prosecutorial officials often have ignored the due process provisions of the law and of the Constitution. For example, police and prosecutors can subject prisoners to severe psychological pressure to confess, and coerced confessions frequently are introduced as evidence. In May the top prosecutor, Han Zhubin, said in an interview that use of illegal methods by prosecutors had become "very serious" in some areas. He acknowledged that some prosecutors employed torture to extract confessions and used interrogation rooms like "prison cells" to hold suspects beyond the legal detention period. The Criminal Procedure Law forbids the use of torture to obtain confessions, but one weakness of the law is that it does not expressly bar the introduction of coerced confessions as evidence. Traditionally, defendants who failed to show the correct attitude by confessing their crimes were sentenced more harshly. The conviction rate in criminal cases is over 90 percent, and trials can be little more than sentencing hearings. A 13-year sentence was handed down in the case of prominent dissident Xu Wenli 20 minutes after a 3-hour trial. There is an appeals process, but appeals rarely reverse verdicts.

The revised Criminal Procedure Law was designed to address many of these deficiencies and give defense lawyers a greater ability to argue their clients' cases. The new amendments abolish a form of pretrial detention called "shelter and investigation," expand the right to counsel, put limits on nonjudicial determinations of guilt, and establish a more transparent, adversarial trial process. However, the amendments do not bring China into full compliance with international standards. For example, in "state secrets" cases, the revised Criminal Procedures Law authorizes officials to deny suspects access to a lawyer while their cases are being investigated. The definition of state secrets is broad and vague and subject to independent interpretation by police, prosecutors, and judges, at different stages in a criminal case. Uncertainty regarding the scope and application of this statute has created concern about a detainee's right to legal assistance.

Nevertheless, there are signs that the public is beginning to use the court system and the new legal remedies available to it to protect their rights and to seek redress for a variety of government abuses. The SPC reported in March that citizens had filed 90,000 lawsuits against government officials in 1997. A court in Hebei province returned to its owner over \$62,000 (513,267 rmb) that had been confiscated illegally by authorities. Nonetheless, in politically sensitive cases a decision in favor of the dissident remains rare. In September a Wuhan court threw out a case brought by Li Weiping who charged that local public security officials had confiscated illegally his passport after his release from prison.

China's first Lawyers' Law, designed to professionalize the legal profession, took effect in 1996. Subsequently, the Ministry of Justice drafted relevant regulations to standardize professional performance, lawyer-client relations, and the administration of lawyers and law firms. It also granted lawyers formal permission to establish law firms, set educational requirements for legal practitioners, encouraged free legal services for the general public, and provided for the disciplining of lawyers. Government officials state that there is an insufficient number of lawyers to meet the country's growing needs. A key element in Justice Ministry efforts to encourage legal reform is a plan to have 150,000 lawyers, 30,000 notaries, and 40,000 grassroots legal service centers by the year 2000. According to December 1997 figures, China has 114,000 lawyers, 18,000 notarial personnel, and more than 8,300 law offices. Lawyers are organizing private law firms that are self-regulating and do

not have their personnel or budgets determined directly by the State. More than 60 legal aid organizations have been established around the country.

Defendants have frequently found it difficult to find an attorney willing to handle sensitive political cases. Government-employed lawyers still depend on an official work unit for employment, housing, and other benefits, and therefore many may be reluctant to be seen as overzealous in representing politically sensitive defendants. Nonetheless, a loosely organized group of dissidents was able to hire attorneys to represent three Zhejiang activists who had been detained in July for trying to register an opposition political party. A Beijing lawyer who had represented Wei Jingsheng in the past agreed to defend the political theorist Fang Jue, who was arrested and charged with "economic crimes." In December authorities blocked the attempts by prominent dissidents Wang Youcai and Qin Yongmin to hire lawyers of their own choosing. There were no new reports of the Government revoking the licenses of lawyers representing political defendants, as it sometimes has done in the past.

However, lawyers who try to defend their clients aggressively often run into obstructions erected by police and prosecutors. In August the Secretary General of the All China Lawyer's Association said that in the past 3 years the group had received 59 complaints from lawyers who had been threatened or harassed by law enforcement officials. He predicted that it would take 3 to 5 years for the new Criminal Procedure Law to take root in the legal system. He called for better protection of lawyers and their legitimate role in the adversarial process.

The lack of due process is particularly egregious in death penalty cases. The number of capital offenses has increased from 26 to 65 as amendments were added to the 1979 Criminal Law. They include financial crimes such as counterfeiting currency. In May 1997, Zhao Binyi was executed in Tianjin after being convicted of seven counts of fraud involving approximately \$6,000 (49,671 rmb). A higher court nominally reviews all death sentences, but the time between arrest and execution is often days and sometimes less, and reviews consistently have resulted in the confirmation of sentences. Minors and pregnant women are expressly exempt from the death sentence, and only those theft cases involving banks or museums warrant capital punishment. Based on a review of Chinese press accounts, Amnesty International (AI) reported that in 1997 China sentenced more than 3,152 convicts to death (compared with 6,100 in 1996 in the midst of the anticrime "Strike Hard" campaign) and carried out 1,876 executions (compared to 4,367 in 1996). AI believes that actual figures may be higher because not all death penalties or executions are reported, and such information can be manipulated by the authorities. Officials say that new safeguards placed on sentencing and execution have reduced the number of death penalty cases.

In recent years, credible reports have alleged that organs from some executed prisoners were removed, sold, and transplanted. Officials have confirmed that executed prisoners are among the sources of organs for transplant but maintain that consent is required from prisoners or their relatives before organs are removed. There is no national law governing organ donations, but a Ministry of Health directive explicitly states that buying and selling human organs and tissues is not allowed. In February two Chinese nationals were charged in a foreign court for trying to sell human organs allegedly taken from the bodies of executed prisoners. At least one Western country has asked for information on Chinese Government investigations of alleged organ trafficking, but to date no information has been released. There were credible reports that patients from Taiwan had undergone organ transplant operations on the mainland, using organs removed from executed criminals.

Defendants legally are entitled to challenge reeducation-through-labor sentences under the Administrative Litigation Law. Persons can gain a reduction in, or suspension of, their sentences after appeal, but appeals are usually not successful because of problems such as short appeal times and

inadequate legal counsel that weaken the effectiveness of the law in preventing or reversing arbitrary decisions. In September the Shanghai Intermediate People's Court held a special session to hear dissident Yang Qinheng's appeal of his 3-year sentence. The hearing was adjourned without a decision.

Government officials deny that China holds any political prisoners, asserting that authorities detain persons not for their political or religious views, but because they violate the law. However, the authorities continued to confine citizens for political and religious reasons. It is estimated that thousands of political prisoners remain imprisoned. According to international press reports, some 230,000 persons are in reeducation-through-labor camps, sentenced to up to 3 years through administrative procedures, not a trial (see Section 1.d.).

The 1997 Criminal Law replaced "counterrevolutionary" offenses, which often, in the past, had been used against the Government's political opponents, with loosely defined provisions barring "crimes endangering state security." In September officials said that there were 1,946 individuals in prison serving sentences under the Counterrevolutionary Law. Persons detained for such offenses included Hu Shigen, Kang Yuchun, Liu Wensheng, Yu Zhijian, Zhang Jingsheng, and Sun Xiongying. Several foreign governments urged China to review the cases of those charged with counterrevolution, given that the crime was no longer on the books, and release those who had been jailed for nonviolent offenses under the old statute. Officials have indicated that a case-by-case review of appeals filed by individual prisoners is possible under the law, and there is one known case of a successful appeal. However, the Government indicated that it would neither initiate a broad review of cases nor grant a general amnesty arguing that "crimes" covered by the law on counterrevolution still are considered crimes under the Law on State Security. Those charged with counterrevolutionary crimes continue to serve their sentences.

The Government released early certain prisoners detained for their political or religious beliefs, including Liu Nianchun, Wang Dan, Zhou Guoqiang, Pan Mingdong, and Zhang Xiaoxu. However, many others including Liu Xiaobo, Chen Lantao, Li Hai, Han Chunsheng, Xu Yongze, Fan Zhongliang, Xu Guoxing, Ngawang Choephel, Chadrel Rinpoche, Jigme Sangpo, and Ngawang Sandrol (see Tibet Addendum) remained imprisoned or under other forms of detention during the year.

Criminal punishments can include "deprivation of political rights" for a fixed period after release from prison, during which the individual is denied rights of free speech and association. Former prisoners also can find their status in society, ability to find employment, freedom to travel, and access to residence permits and social services severely restricted. Economic reforms and social changes have ameliorated these problems for nonpolitical prisoners in recent years. However, former political prisoners and their families frequently are subjected to police surveillance, telephone taps, searches, and other forms of harassment, and may encounter difficulty in obtaining or keeping employment and housing.

#### f. Arbitrary Interference With Privacy, Family, Home, or Correspondence

Government interference in daily personal and family life continues to decline for the average citizen. In urban areas, most people still depend on government-linked work units for housing, permission to have a child, approval to apply for a passport, and other aspects of ordinary life. However, the work unit and the neighborhood committee, which originally were charged with monitoring activities and attitudes, have become less important as means of social or political control. Political "study sessions," meant to instill in all citizens a common, party-approved political line, no longer play a

meaningful role in shaping attitudes and are held infrequently, if at all. Work units reportedly on occasion refused to cooperate with police requests to detain employees.

Despite legal protections, authorities often do not respect the privacy of citizens in practice. Although the law requires warrants before law enforcement officials can search premises, this provision frequently has been ignored; moreover, the Public Security Bureau and the procuratorate can issue search warrants on their own authority. The Constitution states that "freedom and privacy of correspondence of citizens are protected by law." In practice authorities often monitor telephone conversations, fax transmissions, electronic mail, and Internet communications of foreign visitors, businessmen, diplomats, and journalists, as well as Chinese dissidents, activists, and others. The security services routinely monitor and enter the residences and offices of foreigners, to gain access to computers, telephones, and fax machines. All major hotels have a sizable internal security presence. Authorities also open and censor domestic and international mail. Han Chunsheng, a Voice of America (VOA) listener who allegedly sent over 20 letters critical of China to a VOA mailbox, remains in prison on an 8-year sentence for counterrevolutionary incitement and propaganda. Government security organs monitor and sometimes restrict contact between foreigners and citizens. Some dissidents are under heavy surveillance, and others routinely had their telephone calls with foreign journalists and diplomats monitored. On occasion, some were blocked from meeting with foreigners during politically sensitive periods. Dissidents routinely are warned not to speak with the foreign press. In the period before his arrest, Xu Wenli and a Western journalist were detained and interrogated for several hours after trying to meet in a restaurant for an interview.

Authorities also harassed and monitored the activities of relatives of dissidents. For example, security personnel keep close watch on relatives of prominent dissidents such as Chen Ziming, particularly during sensitive periods. Security personnel followed He Xintong, the wife of Xu Wenli and Wei Xiaotao, the brother of Wei Jingsheng, to meetings with Western reporters and diplomats on numerous occasions. Government harassment has prevented relatives of Chen Ziming, Liu Nianchun, Qin Yongmin and other dissidents from obtaining and keeping steady employment. In October authorities in Shandong province ordered activist Xie Wanjun to move out of his house and cut off electric power and the telephone line to his home. Xie's wife lost her teaching job. Also in October police in Beijing blocked a group of dissidents who tried to drive to Shandong in a demonstration of support for Xie. The Government froze a bank account kept by activist Ding Zilin to help the families of Tiananmen massacre victims. The action was criticized in a public letter issued by 98 Beijing-based activists. Police also detained the relatives of dissidents (see Sections 1.d. and 2.a.).

The Government encouraged expansion of Internet and other communications infrastructure. Internet use is expanding exponentially, creating a potentially powerful channel of information to the computer literate. The Government reported that 2.1 million people were connected to the Internet. Actual users are believed to number as many as 6 million and industry experts projected that the country would have 10 million Internet users by the year 2000. High Internet service fees currently limit access. The Government has created special Internet police units to increase control of Internet content and access. Authorities have blocked at various times politically "sensitive" web sites, including those of dissident groups and some major foreign news organizations, such as the VOA, the Washington Post, the New York Times, and the British Broadcasting Corporation (BBC). However, a number of human rights web pages continue to be accessible, including that of the Tibet government-in-exile.

The Government's efforts to block content and control usage have had only limited success because sophisticated users can bypass site blocking, and, more important, because of the number of Internet sites that provide outside information and news. E-mail and e-mail publications are even more

difficult to block, and there is no indication that the Government has attempted to do so. However, the authorities target some e-mail users and read their e-mail. Dissident groups abroad use e-mail to send publications and disseminate information to readers in China, and activists within China now do this as well. An e-mail magazine called VIP Reference News, the content of which originates from the mainland, publishes articles on many news stories not covered by the media. A May edition gave readers extensive coverage of a protest staged by jailed dissident Liu Nianchun's wife and mother in front of the NPC and their subsequent detention. At least one dissident has set up his own web site; a growing number of activists frequently communicate with each other via e-mail. When a dissident is harassed or detained, activists using e-mail, faxes, telephones, and pagers can quickly spread the word to colleagues around the country.

There is no effective enforcement of State Council regulations issued in 1997 requiring those involved in international networking to apply for licenses and provide details regarding the scope and nature of their activities. The State Council also promulgated a comprehensive list of prohibited Internet activities, including using the Internet to "incite the overthrow of the Government or the Socialist system" and "incite division of the country, harming national unification." The regulations, which came into effect on December 30, 1997, provide for fines and other unspecified punishments to deal with violators. In March Shanghai businessman Lin Hai was arrested on charges of subversion, for providing an on-line dissident magazine with some 30,000 e-mail addresses in China. His trial on charges of trying to undermine state power was held in early December and subsequently he was sentenced to 2 years' imprisonment.

The authorities continue to jam VOA broadcasts, but the effectiveness of this interference varies considerably by region, with audible signals of the VOA and other short-wave broadcasters reaching most parts of the country (see Section 2.a.). Dissidents and average citizens in Beijing report few problems in picking up the VOA. Government jamming of Radio Free Asia (RFA) appears to be more effective (see Section 2.a.). In the absence of an independent press, overseas broadcasts such as VOA, BBC, and RFA have a large audience, including activists, ordinary citizens, and even government officials. In December Hunan dissident Zhang Shuguang was sentenced to 10 years in prison, in part because he granted an interview to RFA in which he revealed that 80 farmers had staged demonstrations to protest illegal taxes levied by local officials.

The Government continued to implement comprehensive and often intrusive family planning policies. The State Family Planning Commission (SFPC) formulates and implements policies with assistance from the Family Planning Association, which has 83 million members in 1.02 million branches nationwide. Officials have predicted that the population will reach almost 1.6 billion in the year 2044 if current birth rates continue. Most Chinese demographers estimate fertility at 2.1 births per woman (although the official figure is 1.8)--indicating that the "one-child policy" is not applied uniformly to Chinese couples. According to official figures from a 1995 survey, 25.7 percent of women of childbearing age have 3 or more children, 32.5 percent have 2, 36.1 percent have 1 child, and 5.7 percent are childless. Couples in urban areas are most affected by family planning guidelines, seldom receiving permission to have more than one child, although urban couples who themselves were only children may have two children. In general, economic development--as well as factors such as small houses and high education expenses--in major urban centers has reached a level where couples often voluntarily limit their families to one child.

Outside the cities, exceptions to the "one-child policy" are becoming the norm. The average number of children per family in rural areas, where 70 percent of citizens still live, is slightly over two. Although rules can vary somewhat by province, in rural areas, couples generally are allowed to have a second child if the first is a girl, an exception that takes into account both the demands of farm labor

and the traditional preference for boys. Families whose first child is handicapped are also allowed to have another child. Ethnic minorities, such as Muslim Uyghurs and Tibetans, are subject to less stringent population controls. Minorities in some rural areas are permitted to have as many as four children. In remote areas, such as rural Tibet, there are no effective limits at all.

Population control policy relies on education, propaganda, and economic incentives, as well as on more coercive measures, including psychological pressure and economic penalties. According to local regulations in at least one province, women who do not qualify for a Family Planning Certificate that allows them to have a child must use an intrauterine loop or implant. The regulations further require that women who use an intrauterine device undergo quarterly exams to ensure that it remains properly in place. If a couple has two children, those regulations require that either the man or woman undergo sterilization. Rewards for couples who adhere to family planning policies include monthly stipends and preferential medical and educational benefits. Disciplinary measures against those who violate policies can include fines (sometimes called a "fee for unplanned birth" or a "social compensation fee"), withholding of social services, demotion, and other administrative punishments that sometimes result in loss of employment. Fines for giving birth without authorization vary, but they can be a formidable disincentive. According to the SFPC 1996 Family Planning Manual, over 24 million fines were assessed between 1985 and 1993 for children born outside family planning rules. In Shanghai the fine for violating birth quotas is three times the combined annual salary of the parents. In Zhejiang province, violators are assessed a fine of 20 percent of the parents' salary paid over 5 years. According to new Guizhou provincial family planning regulations published in July, families who exceed birth quotas are to be fined two to five times the per capita annual income of residents of their local area. The regulations also stipulate that government employees in Guizhou who have too many children face the loss of their jobs. In many provinces, penalties for excess births in an area also can be levied against local officials and the mother's work unit, thus creating multiple sources of pressure. In Guizhou, for example, regulations state that officials in an area in which birth targets are not met cannot be promoted in that year. Unpaid fines sometimes have resulted in confiscation or destruction of homes and personal property by local authorities.

Government policy prohibits the use of force to compel persons to submit to abortion or sterilization. However, intense pressure to meet family planning targets set by the Government has resulted in documented instances where family planning officials have used coercion, including forced abortion and sterilization, to meet government goals. During an unauthorized pregnancy, a woman often is paid multiple visits by family planning workers and pressured to terminate the pregnancy. In June a former Fujian province local family planning official stated that local authorities in a Fujian town systematically used coercive measures such as forced abortion and sterilization, detention, and the destruction of property to enforce birth quotas. After the Fujian allegations were made public, the SFPC sent a team led by a senior official to investigate the charges. In a meeting with foreign diplomats, the senior official did not deny that abuses may have occurred, but insisted that coercion was not the norm, or government policy, nor sanctioned by central authorities in Beijing. For the first time, the Government provided information on cases of local officials who had been punished for carrying out coercive family planning measures. SFPC Vice Minister Li Honggui said in June that local officials have been punished for using coercion and that the Government "made it a principle to ban coercion at any level." In October a senior family planning official again acknowledged that problems persist and reaffirmed the central Government's determination to address such problems. The official said that the SFPC had issued circulars nationwide prohibiting family planning officials from coercing women to undergo abortions or sterilization against their will. Under the State Compensation Law, citizens also can sue officials who exceed their authority in implementing family planning policy, and there are instances in which individuals have exercised this right.

In late 1998, China and the United Nations Population Fund (UNFPA) launched a 4-year pilot project in 32 counties to address population growth solely through the use of voluntary measures on an experimental basis, emphasizing education and economic development. In preparation for the launch of the program, the Government held training conferences during the year, which were attended by family planning officials from each of the 32 counties and 22 provinces participating in the program. UNFPA officials and foreign diplomats went as observers to the meetings, at which SFPC leaders underscored to local and provincial authorities that only voluntary measures would be permitted in project counties. The SFPC and the UNFPA worked together to prepare Chinese-language training materials for the program. It is still too early for an assessment of this pilot project.

Regulations forbid the termination of pregnancies based on the sex of the fetus, but because of the traditional preference for male children, particularly in rural areas, some families have used ultrasound to identify female fetuses and terminate pregnancies. Use of ultrasound for this purpose is specifically prohibited by the Maternal and Child Health Care Law, which came into effect in 1995 and calls for punishment of medical practitioners who violate the provision. According to the SFPC, a handful of doctors have been charged under this law. In 1997 the press reported that the national ratio of male to female births was 114 to 100; the World Health Organization estimated the ratio to be 117 to 100. The statistical norm is 106 male births to 100 female. These skewed statistics reflect the underreporting of female births so that the parents can keep trying to conceive a boy, and the abuse of sonograms and the termination of pregnancies based on the sex of the fetus. Female infanticide, abandonment, or neglect of baby girls are also factors. During the year, state-run media paid increasing attention to unbalanced birth ratios, and the societal problems, such as trafficking in women, which it is causing (see Section 5). In the cities the traditional preference for sons is changing.

There reportedly have been instances in which pregnant prisoners in reeducation-through-labor camps were forced to submit to abortions (see Section 1.c.).

The Maternal and Child Health Care Law requires premarital and prenatal examinations to determine whether couples have acute infectious diseases or certain mental illnesses (not including mental retardation), or are at risk for passing on debilitating genetic diseases. The Ministry of Health implements the law, which mandates abortion or sterilization in some cases, based on medical advice. The law also provides for obtaining a second opinion and states that patients or their guardians must give written consent to such procedures (see Section 5). At least five provincial governments have implemented local regulations seeking to prevent persons with severe mental disabilities from having children. In August the Government issued an "explanation" to provincial governments clarifying that no sterilization of persons with genetic conditions could be performed without their signed consent.

## **Section 2 Respect for Civil Liberties, Including:**

### **a. Freedom of Speech and Press**

Although the Constitution states that freedom of speech and of the press are fundamental rights to be enjoyed by all citizens, the Government interprets the Communist Party's "leading role," as mandated in the preamble to the Constitution, as circumscribing these rights. The Government does not permit citizens to publish or broadcast criticisms of senior leaders or opinions that directly challenge Communist Party rule. The party and Government continue to control many print and broadcast media tightly and use them to propagate the current ideological line. There are more than 10,000 openly distributed publications, including 2,500 newspapers. All media employees are under explicit,

public orders to follow CCP directives, and "guide public opinion" as directed by political authorities. Both formal and informal guidelines continue to require reporters to avoid coverage of many politically sensitive topics. Journalists also must not divulge "state secrets" in accordance with the State Security Law (see Section 1.e.). These public orders, guidelines, and statutes greatly restrict the freedom of broadcast journalists and newspapers to report the news and lead to a high degree of self-censorship.

Until the fall, there was progress in greater openness of the press and electronic media. In an unprecedented move during President Clinton's June state visit, the Government allowed live television and radio broadcasts of both the joint press conference held by Presidents Clinton and Jiang and of President Clinton's speech at Beijing University. The two events allowed citizens to witness on television for the first time uncensored comments, exchange, and debate on previously taboo issues such as human rights abuses, the Tiananmen massacre, and Tibet. However, some of the more sensitive subjects addressed in these two events were not reported in later television broadcasts and print news accounts. In the following months, a number of books were published that contained the full transcripts of the press conference, the Beijing University speech, and other remarks made during the state visit.

The press also continued to expand the range of issues it covers, particularly those relating to official corruption, citizens' rights, and legal reform, often with the tacit consent or even open support of the Government. A July opinion piece in the state-run China Daily commented, "Right now many officials still resent negative (press) coverage, regarding it as a betrayal, taking for granted that the press, under their charge, should be on their side. But the press must not become the private property of some officials used to promote their personal careers over the public interest."

Southern Weekend, one of the most progressive newspapers, achieved a reputation and won wide readership through a combination of muckraking investigative reports and proreform opinion pieces. A July article entitled "The Right To Investigate and the Right To Speak" concluded that the Government should "lift restrictions on the right to speak," and ensure "citizens' legitimate right to investigate."

Stories of official corruption, misconduct and gross abuses, particularly by law enforcement authorities, continued to proliferate in the media. Widely popular investigative television news programs such as "Focus" and "Oriental Horizon" aggressively pursued official malfeasance. In November "Oriental Horizon" broadcast a story on an off-duty policeman in Hubei who had shot and killed a street vendor. The Yangcheng Evening News published a report in March along with photographs, which showed a mentally ill man who had been kept in a cage without trial for over 5 years by local police. The man was released into psychiatric observation after the article was published. The state-run press ran numerous articles and interviews with senior officials that called for reform of the judicial system and an end to corruption in the courts.

Although increased debate among intellectuals within the system was tolerated, similar attempts by political dissidents to organize vehicles for the open discussion of ideas were consistently rejected or suppressed. In March Liu Kangxiu was arrested on charges of trying to subvert the Government for writing an unpublished manuscript on political reform called "Our Point of View." Wuhan activist Qin Yongmin, who was sentenced to 12 years in prison on state security crimes in December, applied unsuccessfully to publish a human rights magazine called Citizen's Forum in March. The Ministry of Culture ignored an application by dissidents Mao Guoliang and Wang Donghai to establish a newspaper called China Human Rights News. The China Development Union, an independent forum that had been holding weekly discussions open to the public on a broad range of political issues, was

shut down in October.

By late fall the authorities took steps to strengthen controls over both print and media journalism as the political atmosphere became increasingly tight. The Propaganda Department of the CCP shut down a Beijing-based monthly and closed several newspapers, including the South Culture Review, for exceeding what authorities deemed permissible. South Culture Review had published an article analyzing the upcoming 1999 anniversaries in China, including the Tiananmen Anniversary. Stern warnings were sent to other magazines and newspapers about the permissible content of articles and editorials. Some writers or editors were fired, including two editors of the economic journal, Guangdong-Hong Kong Information Daily. At year's end, the closings and firings had begun to take effect as journalists exercised greater caution. It was not clear whether the newspapers that have been closed down will be allowed to reopen. In the past, authorities have allowed newspapers to reopen after their editors had spent time at the Central Propaganda Department to "correct their thinking."

The political atmosphere also affected publishing, but books remain one of the most daring media forms because of the economic aspects of publishing. There are three kinds of book businesses: The roughly 500 government-sanctioned publishing houses; smaller independent publishers that cooperate with official publishing houses to put out more daring publications; and the underground press. The 500 government-approved publishing houses are the only organizations legally permitted to print books. Control is exerted by issuing a limited number of publishing licenses, which are required for each edition of a book. A party member at each publishing house monitors the content of the house's publications, using the allocation of promotions, cars, travel and other perquisites to encourage editors to exercise "proper" judgement about publications. Overt intervention by the State Publications Administration and Party Propaganda Bureau is strictly postpublication. Independent publishers take advantage of a loophole in the law to sign contracts with government publishing houses to publish politically sensitive works. These works generally are not subjected to the same multilayered review process as official publications of the publishing houses. Underground printing houses publish the "hottest" books. The main target of the campaign initiated at the end of the year to stop illegal publications, which has restricted the availability of politically sensitive books, is these underground printing houses. Street vendors who usually sell sensitive works apparently have a tacit understanding with the authorities that they will look the other way when the vendors sell other illegal publications; if the vendors stop selling politically sensitive books. Many illegal works are printed by police or military-affiliated organizations, which often are not a target of investigations.

On December 23, a new interpretation of the Publications Law by the Supreme People's Court took effect. The majority of provisions in the new regulations concern intellectual property rights violations and the publication of pornographic material. However, one provision specifically criminalizes under the State Security Law the "publication, distribution, or broadcast" of material containing content intended to "incite national division, damage national unity incite subversion of national authority, or incite the overthrow of the socialist system."

During the year, scholars and intellectuals in favor of political reform tested the limits of public discourse. For much of the year, scholars and commentators published essays that called for political liberalization, government accountability, and gradual democratization, with no adverse consequences. Prominent reformers organized seminars on controversial subjects and, in some cases, became sought after speakers on a reviving campus lecture circuit. One such event brought together 50 scholars to discuss the Austrian Nobel laureate Friedrich Hayek, a staunch opponent of socialism whose works had been banned in China for decades. Other lectures criticized the legacy of Mao Zedong and argued that China must relax political controls in order to continue economic development.

In June a former senior leader reportedly sent a letter to top leaders urging a reassessment of Tiananmen, which he termed "one of the biggest human rights problems of this century." Bao Tong, an aide to the former leader, who had his political rights restored in May, immediately began granting interviews to the international press, criticizing both the Government and Deng Xiaoping. Bao reportedly was warned by authorities not to give any more interviews without prior permission. However, in October Bao spoke out again, granting an interview to a Hong Kong newspaper in which he called for the restoration of the former senior leader's political rights. A November report stated that the Government refused to issue Bao a passport to visit his son abroad.

By fall, however, officials began to take steps to rein in this activity. "Political China," a collection of previously published essays on political reform, was ordered taken off shelves and a second printing was canceled, apparently because it had strongly advocated reform. At year's end, Shi Binhai, coeditor of the book, remained in custody. Political theorist Fang Jue, who had circulated a groundbreaking essay on reform in late 1997 without suffering retribution at the time, was detained in mid-1998 and subsequently charged with "economic crimes." During the year, Fang had made increasingly bold statements critical of the Government.

Political dissidents also tested the limits of official tolerance. Until the fall, dissidents who limited their activities to voicing criticism publicly of the Government or expressing views contrary to government policy generally were dealt with less harshly than in the past. The Government relied on warnings, harassment, and temporary detention to control their activities, although arrest was used in some instances (see Section 1.d.). An unprecedented number of activists openly challenged the Government during the March plenary session of Parliament and the June 4 anniversary of the Tiananmen massacre. They called for, among other things, overturning the Government's official verdict that the Tiananmen protests had been a "counterrevolutionary disturbance;" the rehabilitation of deposed Communist Party chief Zhao Ziyang; and an end to one-party rule. Activists also petitioned the National People's Congress to reject Premier Li Peng--whom some called a "murderer" for his involvement in the Tiananmen massacre--as its new chairman.

However, by midfall, the Government had moved beyond the harassment and temporary detentions used to restrain political activists earlier in the year. A crackdown on political dissent was instituted beginning in November, and scores of political activists were detained while the most prominent were tried and sentenced harshly (see Section 1.d.). There were instances where authorities also harassed and monitored the activities of the relatives of dissidents (see Section 1.f.).

The Government kept tight control over the foreign press during the year and continued efforts to prevent its "interference" in internal affairs. The authorities continued to jam Chinese- and Tibetan-language broadcasts of Voice of America and Radio Free Asia (RFA) with varying degrees of success. The Government barred from entry into China three RFA journalists who were part of the White House press pool traveling with President Clinton for the June summit. In separate incidents in September and October, a Western freelance producer and a Japanese journalist were detained briefly and then deported. In November the Beijing bureau chief for the German magazine Der Spiegel was expelled and barred for 5 years from returning to China for allegedly possessing classified government documents, charges he has denied.

Despite such government controls, information about the nation and the world continued to flow into the country at an increasing rate. Residents in Guangdong and other parts of southern China have wide access to Hong Kong television programs and newspapers. Throughout the country, a lively tabloid sector is flourishing. Radio talk shows remain popular, and, while avoiding the most

politically sensitive subjects, they provide opportunities for citizens to air grievances about public issues. Despite licensing requirements and other restrictions, a small but rapidly growing segment of the population has access to satellite television broadcasts and the Internet. Most of the population has the means to own and use short-wave radios, and the Government does not place any restrictions on their use.

The Government continues to impose ideological controls on political discourse at colleges, universities, and research institutes. Academic discussions often are unrestricted, but scholars and researchers report varying degrees of control regarding the issues that they may examine and the conclusions that they may draw. Censorship of written material comes at the time of publication, or when intellectuals and scholars, anticipating that books or papers on political topics would be deemed too sensitive to be published, exercise self-censorship. In areas such as economic policy or legal reform, there was far greater official tolerance for comment and debate.

#### b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of peaceful assembly, however, the Government severely restricts this right in practice. The Constitution stipulates that such activities may not challenge "party leadership" or infringe upon the "interests of the State." Protests against the political system or national leaders are prohibited. Authorities deny permits and quickly move to suppress demonstrations involving expression of dissenting political views. In February Tu Guangwen, a pedicab driver in Wuhan, reportedly was sentenced to 3 years in prison for organizing a street protest. In May the mother and wife of jailed labor activist Liu Nianchun staged a sitdown protest outside the National People's Congress to demand medical treatment for Liu. The two were detained at a nearby police station for several hours before being sent home. In September Liu's wife was removed forcibly by police from a Beijing hotel where she had gone to try to meet visiting UNHCHR Robinson to discuss her husband's case. There were reports in September that several hundred police officers in Changsha, the capital city of Hunan, beat 20 villagers and temporarily detained 6 others while breaking up a protest of several hundred persons in front of the provincial government building.

Despite restrictions, the number of demonstrations nationwide continued to grow. According to one report, there were 3,380 instances of assembly, demonstration marches, and petitions in the first 5 months of the year. Many demonstrations were handled with restraint by authorities. Demonstrators frequently gathered at the front gate of the State Family Planning Commission to protest family planning policies and were left alone by police as long as they remained peaceful. In April some 50 persons gathered in front of the Beijing city hall to object to the demolition of their homes to make way for a new subway line. After several hours, the demonstrators were persuaded to go home in a bus provided by authorities. In May 500 taxi drivers gathered outside municipal government offices in Xian to protest government-mandated fares. They reportedly blocked three main intersections for some 6 hours before city leaders promised to listen to their grievances. The demonstrators then dispersed without incident. In September hundreds of students and women demonstrated in front of the Indonesian Embassy to protest reported violence against ethnic Chinese in Indonesia. There were more reports of labor-related unrest than in the previous year (see Section 6).

The Constitution provides for freedom of association; however, the Government restricts this right in practice. Communist Party policy and government regulations require that all professional, social, and economic organizations officially register with, and be approved by, the Government. Ostensibly aimed at restricting secret societies and criminal gangs, these regulations also prevent the formation of political, human rights, religious, labor, and youth organizations that directly challenge

government authority.

There are no laws or regulations that specifically govern the formation of political parties. In June a group of dissidents in Zhejiang province led by Wang Youcui went to the local Civil Affairs Ministry office to register China's first opposition political party. Their application was rejected, and a number of the activists were detained for various periods of time.

In the months thereafter, there were similar attempts in provinces around the country to register local branches of the China Democracy Party. In some places, activists were harassed or temporarily detained, while in others local officials met with dissidents and explained the requirements for registering social organizations. However, the Government made clear that none of the applications would be approved (see Section 3).

In 1998 there were 1,500 national-level, quasi-NGO's and 200,000 similar lower level organizations registered with the Ministry of Civil Affairs. Although these organizations all came under some degree of government control, they were able to develop their own agendas. Many had support from foreign secular and religious NGO's. Some sought advocacy roles in public interest areas such as women's issues, the environment, and consumer rights. In November the Government promulgated a revised and more complete set of regulations on the registration of nongovernmental organizations (NGO's). The revised regulations require that all NGO's must reregister under the revised regulations, a process which may be used to further restrict the numbers and types of NGO's. To register, local-level groups must have an official office and at least \$3,600 (30,000 yuan) in funds. National-level groups must have at least 100,000 yuan. Applications must be vetted by the Government, which has 2 months in which to grant approval. Once established, groups are required to submit to regular oversight and "obey the constitution, laws, and national policies;" they must not "violate the four cardinal principles, damage national unity, or upset ethnic harmony." Violators (groups that disobey guidelines or unregistered groups that continue to operate) may face administrative punishment or criminal charges. There was no information by year's end on how these regulations are being implemented.

During the year, Beijing businessman Peng Ming and several associates formed an independent forum for discussion of economic and political issues called the China Development Union (CDU). Foreign reporters and diplomats as well as interested Chinese were invited to weekly meetings. The CDU took up a range of topics, including sensitive issues such as political reform, labor, and democratization. Peng claimed publicly that the CDU had registered 4,000 members nationwide and hoped to recruit a million more to become a major political force. Authorities allowed the group and its provocative weekly meetings to continue for several months before formally closing down the CDU's offices in October. At year's end, the group was continuing to meet but less openly and on a less frequent basis with fewer members.

#### c. Freedom of Religion

The Constitution provides for freedom of religious belief; however, the Government seeks to restrict religious practice to government-sanctioned organizations and registered places of worship and to control the growth and scope of the activity of religious groups. During the year, some unregistered religious groups were subjected to increased restrictions, although the degree of restrictions varied significantly from region to region and the number of religious adherents, in both unregistered and registered churches, continued to grow rapidly. The Criminal Law states that government officials who deprive citizens of religious freedom may, in serious cases, be sentenced to up to 2 years in prison. However, there are no known cases of persons being punished under this statute.

The State Council's Religious Affairs Bureau (RAB) is responsible for monitoring and judging the legitimacy of religious activity. The RAB and the CCP United Front Work Department, staffed by officials who are rarely religious adherents, provide policy "guidance and supervision" over implementation of government regulations on religious activity, as well as the role of foreigners in religious activity.

During the year, the Government continued a national campaign to enforce 1994 State Council regulations that require all places of worship to register with government religious affairs bureaus and come under the supervision of official "patriotic" religious organizations. There are six preconditions for the establishment of venues for religious activity: Possession of a meeting place; citizens who are religious believers and who regularly take part in religious activity; an organized governing board; a minimum number of followers; a set of operating rules; and a legal source of income.

At the end of 1997, the Government reported that there were more than 85,000 approved venues for religious activities. Some groups registered voluntarily, some registered under pressure, while authorities refused to register others. Unofficial groups claimed that authorities often refuse them registration without explanation. According to the Government, these refusals were mainly the result of inadequate facilities and meeting spaces. Many religious groups have been reluctant to comply with the regulations out of principled opposition to state control of religion... due to fear of adverse consequences if they reveal, as required, the names and addresses of church leaders. In some areas, efforts to register unauthorized groups are carried out by religious leaders and civil affairs officials. In other regions, registration is performed by police and RAB officials, concurrently with other law enforcement actions. Police closed many "underground" mosques, temples, seminaries, Catholic churches, and Protestant "house churches," many with significant memberships, properties, financial resources, and networks. At times leaders of unauthorized groups are the targets of harassment, interrogations, and detention, and physical abuse.

In certain regions, government supervision of religious activity is minimal, although local implementing regulations in other places, such Zhejiang, Guangxi, Shanghai, and Chongqing call for strict government oversight. In some parts of the country, registered and unregistered churches are treated similarly by authorities, existing openly side by side, and many congregants worship in both types of churches. In other areas, particularly where considerable unofficial and unregistered religious activity takes place, authorities closely monitor places of worship and take action against unregistered churches. The relationship between unregistered and registered churches can be tense. Some house church members maintained that authorities had renewed efforts in the last half of the year to register house churches and to harass those who resist, especially in Henan and Shandong provinces. Throughout the year, the Government moved swiftly against houses of worship outside its control that grow too large or espouse beliefs that it considers threatening to "state security." In October and November, approximately 140 house church worshipers were detained in central Henan after attending services that attracted participants from other provinces and from outside China.

The law does not prohibit religious believers from holding public office; however, most influential positions in state units are reserved for party members and Communist Party officials state that party membership and religious belief are incompatible. The Communist Party reportedly issued a circular in 1997 ordering party members not to adhere to religious beliefs. This followed a 1995 document circulated to party organizations at the provincial level ordering the expulsion of party members who belong to religious organizations, whether open or clandestine. The People's Liberation Army's "Routine Service Regulations" state explicitly that servicemen "may not take part in religious or superstitious activities." There is no available evidence indicating whether party or PLA military

personnel were expelled under such regulations. According to government officials, 20 to 25 percent of local Communist Party officials engage in some kind of religious activity. Most officials who practice a religion are Buddhist or believe in a folk religion. Religious figures are included in national-level government organizations. The National People's Congress (NPC) includes several religious leaders, including Pagbalha Geleg Namgyai, a Tibetan "living Buddha," who is a vice chairman of the Standing Committee of the NPC. Religious groups also are represented in the Chinese People's Political Consultative Conference, a forum for multiparty cooperation and consultation led by the CCP, which advises the Government on policy.

After forcefully suppressing all religious observances and closing all seminaries during the 1966-76 Cultural Revolution, the Government began in the late 1970's to restore or replace some damaged or confiscated churches, temples, mosques, and monasteries, and to allow the reopening of seminaries. Implementation of this policy has varied from locality to locality. According to official figures published in late 1997, there are over 180 million religious adherents, over 3,000 religious organizations, about 300,000 clergy, and 74 religious schools and colleges. Official religious organizations administer local Bible schools, nearly two dozen Catholic and Protestant seminaries, nine institutes to train imams and Islamic scholars, and institutes to train Buddhist monks. Students who attend these institutes must demonstrate "political reliability," and all graduates must pass an examination on their theological and political knowledge to qualify for the clergy. The Government permitted some Catholic and Protestant seminarians, Muslim clerics, and Buddhist clergy to go abroad for additional religious studies. In most cases, funding for these training programs is provided by foreign organizations. Both official and unofficial churches have problems training adequate numbers of clergy to meet the needs of their growing congregations. However, unofficial churches have particularly significant problems training clergy or sending students to study overseas, and many clergy receive only limited and inadequate preparation.

The authorities permit officially sanctioned religious organizations to maintain international contacts that do not entail "foreign control." What constitutes "control" is not defined. Regulations enacted in 1994 codified many existing rules involving foreigners, including a ban on proselytizing by foreigners, but allow foreign nationals to preach to foreigners, bring in religious materials for their own use, and preach to Chinese at churches, mosques, and temples at the invitation of registered religious organizations. Missionaries officially are not permitted, but foreign Christians currently are teaching English and other languages on college campuses with minimum interference from authorities as long as their proselytizing is low key. In recent years, some local authorities have subjected worship services of alien residents to increased surveillance and restrictions.

The Government continued to engage in international dialog on religious issues. China invited an increasing number of foreign religious organizations to visit religious sites and talk to official religious leaders and figures. As a result of the October 1997 summit between President Clinton and President Jiang a delegation of three American religious leaders traveled to China in February at the invitation of President Jiang to open a bilateral dialog on issues of religious freedom. After the visit, President Jiang, who met personally with the three religious leaders, commissioned the Chinese Academy of Social Sciences (CASS) to draft separate volumes on Catholicism, Protestantism, Buddhism, Islam, and Taoism--the five "official" religions--for study by government and party cadres.

Buddhists make up the largest body of religious believers. The Government estimates that there are more than 100 million Buddhists, most of whom are from the dominant Han ethnic group. However, it is difficult to estimate accurately the number of Buddhists because they often practice their faith without participating in public ceremonies. The Government reports that there are 13,000 Buddhist

temples and monasteries and more than 200,000 nuns and monks. Local governments strictly enforced regulations on places of worship, particularly illegally constructed Buddhist temples and shrines. During a May conference in Hunan on provincial religious work, a senior provincial party official said that goals for the coming year were to: "Tighten management of places of religious activities, properly handle issues concerning the indiscriminate establishment of temples and the setting up of outdoor Buddha statues, and crack down on heretical religious organizations and illegal religious activities." The traditional folk religion (worship of local gods, heroes, and ancestors) of 75 percent of the population has been attacked as "feudal superstition" and thousands of religious shrines have been destroyed. Nonetheless, folk religion has revived in recent years and is tolerated unofficially to varying degrees as a loose affiliate of Taoism or as an ethnic minority cultural practice. (A discussion of government restrictions on Tibetan Buddhism can be found in the Tibet addendum to this report.)

According to government figures, there are 18 million Muslims, 30,000 Islamic places of worship, and more than 40,000 imams. In some areas where ethnic unrest has occurred, officials continue to restrict the building of mosques and the religious education of youths under the age of 18. After a series of violent incidents in Xinjiang in 1997, police cracked down on Muslim religious activity and places of worship, and local authorities issued regulations further restricting religious activities and teaching. A May report on Xinjiang People's Radio quoted a senior provincial official accusing separatists of having "carried out subversion and sabotage in the region in the name of religious activities." The official said that the Government must "resolutely oppose illegal religious activities" and that religious practice must "uphold the dignity of laws, the interest of the people, the unification of the motherland, and the unity of the nationalities. Any violation will not be tolerated by the people's democratic dictatorship" (see Section 5).

The Government permits and in some cases subsidizes, Muslim citizens who make the hajj to Mecca. According to government statistics, more than 45,000 Chinese Muslims have made the pilgrimage in recent years--5,000 in 1998. In November a Qing dynasty mosque was destroyed in Chengdu's Muslim quarter to make way for a boulevard near an expanded city square despite strong opposition from the city's Muslim population. The construction of a new mosque over a complex of retail establishments further offended the community.

The number of Christians in both official and unofficial churches continues to grow rapidly, particularly in rural areas. The growth of unofficial churches has caused concern among many government and Communist Party officials who perceive unregulated religious gatherings as a potential challenge to their authority a threat to public order, and an alternative to Socialist thought. There was evidence that authorities in some areas continued a concerted effort to crack down on the activities of the unapproved Catholic and Protestant churches. The Government officially permits only those Christian churches affiliated with either the Catholic Patriotic Association/Catholic Bishops Conference or the (Protestant) Three Self Patriotic Movement/Chinese Christian Council to operate openly.

In some regions, coexistence and cooperation between official and unofficial churches is close enough to blur the line between the two. Coadjutor Bishop Joseph Zen Ze-kiun of Hong Kong said in an address to the Vatican Synod for Asia in April that "bishops and priests of the official (Catholic) church today are, with very few exceptions, zealous workers in the vineyard of the Lord, leading a poor and exemplary life, respected by the faithful they serve...." However, in some areas relations between the two churches remain hostile. A Roman Catholic news agency reported that, from June 25 to July 3, the provincial government in Gansu "invited" 32 unofficial Catholic church leaders to attend study sessions, during which they were forced to sign documents affirming that their faith

should "not be linked with the Pope politically or economically." Two bishops of the official Catholic Church, who have been recognized by the Vatican as well, were denied passports to attend the Synod for Asia in April.

The unofficial, Vatican-affiliated Catholic Church claims a membership far larger than the 4 million persons registered with the official Catholic Church. Precise figures are difficult to estimate because many Catholics, particularly in rural areas, attend both official and unofficial services, but Vatican officials have estimated as many as 10 million adherents. According to official figures, the government-approved Catholic Church has 4,000 clergy and over 4,600 churches and meeting houses. China so far has not agreed to establish diplomatic relations with the Holy See, and there is no Vatican representative in China. Bishops in the official Catholic Church are not consecrated by Rome, but many have been recognized unofficially by Rome.

The Government maintains that there are between 10 and 15 million registered Protestants, 18,000 clergy, over 12,000 churches, and some 25,000 meeting places. According to foreign experts, perhaps 30 million persons worship in house churches that are independent of government control, although estimates by some Chinese house church groups range as high as 80 million.

This increase in the number of Christians has resulted in a corresponding increase in the demand for Bibles. In 1998 the Government approved the printing of more than 3 million Bibles, and there are currently more than 18 million Bibles in print. One printing company that is a joint venture with an overseas Christian organization also prints approximately 500,000 Bibles a year. Although Bibles can be purchased at some bookstores, they are not readily available and cannot be ordered directly from publishing houses by individuals. However, they are available for purchase at most officially recognized churches, and many house church members buy their Bibles from churches without incident. Nonetheless, some underground Christians hesitate to buy Bibles at official churches because such transactions sometimes involve receipts identifying the purchaser. Foreign experts confirm reports of chronic shortages of Bibles, mostly due to logistical problems in disseminating Bibles to rural areas. However, they note that the situation has improved in recent years due to improved distribution channels, including to house churches. Customs officials continue to monitor for the "smuggling" of Bibles and other religious materials into the country.

In some areas, security authorities used threats, demolition of unregistered property, extortion of "fines," and interrogation to harass religious figures and followers. Implementing regulations, provincial work reports, and other government and party documents continued to exhort officials to enforce vigorously government policy regarding unregistered churches. In March the Guangzhou Municipal People's Congress passed highly restrictive religious regulations. Zhejiang province also promulgated new Religious Affairs Regulations that stipulated that "illegal" property and income would be confiscated from those who "1) preside over or organize religious activities at places other than those for religious activities or at places not approved by a religious affairs department; 2) do missionary work outside the premises of a place of religious activity; and 3) sponsor religious training activities without obtaining the approval of a religious affairs department at or above the county level." In particular, authorities targeted unofficial religious groups in Beijing and the provinces of Henan and Shandong, where there are rapidly growing numbers of unregistered Protestants, and Hebei, a center of unregistered Catholics. In Henan there were reports that police raided two house church services and detained approximately 140 worshipers, beating some of them in the process. On October 26, the Public Security Bureau broke up a house service and detained 40 house church members in Liuwan. According to reports some were beaten. On November 5, the Public Security Bureau surrounded a gathering of house church members in Nanyang and detained over 100 persons, including church leaders who reportedly were beaten. Some house church leaders

have alleged that this raid was initiated at the urging of officials from the local branch of the Three-Self Patriotic Movement.

In some cases, public security officials have used prison or reform-through-education sentences to enforce regulations. Evangelist Xu Yongze, a leader of the Protestant "unity movement," continues to serve a 3-year reform-through-labor sentence in Pingyuan prison in Henan for allegedly disturbing public order. The Government's 1997 White Paper on Religious Freedom stated that Xu had violated the law by promoting a cult, preaching that the Apocalypse was near, and asking worshipers to wail in public spaces for several consecutive days. Group members deny these charges. Xu's colleagues Qin Baocai and Mu Sheng continue to serve reeducation-through-labor sentences. In September a group of leaders from house church networks met in Henan and issued a public communique calling on the Government to enter into a dialog with unofficial Protestant churches, to release all religious prisoners, and to redefine what constitutes a "cult." In December another communique set forth a common theological creed and a joint position on relations with the Government. House church pastor Allen Yuan, 85, reportedly was placed under virtual house arrest for a period of time in June and again in August after he held a large ceremony in which 350 worshipers were baptized.

In May the authorities released 78-year-old Roman Catholic Bishop Zeng Jingmu 6 months before the end of his 3-year reeducation sentence after foreign governments and religious leaders interceded on his behalf. He is reportedly under house arrest.

In Hebei, where perhaps half of China's Catholics reside, friction between unofficial Catholics and local authorities continued. Hebei authorities have been known to force many underground priests and believers to make a choice of either joining the "patriotic" church or facing punishment such as fines, job loss, and, in some cases, having their children barred from school. The whereabouts of Roman Catholic Bishop Su Zhimin, whose followers reported that he was arrested in October 1997, remained unclear. Underground Catholic sources in Hebei claimed that he was still under detention, while the Government denied having taken "any coercive measures" against him. Reliable sources reported that Bishop An Shuxin, Bishop Zhang Weizhu, Father Cui Xing, and Father Wang Quanjun remained under detention in Hebei. The Cardinal Kung Foundation reported that Father Wei Jingkun and Sister Zhang Yanzhi were detained in August for celebrating the Feast of the Assumption of the Blessed Virgin Mary, and that Bishop Jia Zhiguo was detained during the June visit of President Clinton. Reliable sources reported that priests Dong Zhenlu, Chun Yunpeng, and Zhang Ruowang were detained in February; some linked their detention to the visit to China of three foreign religious leaders. Father Lu Genyou and Father Shi Wende reportedly were detained in the spring. Underground Catholic Bishop Joseph Fan Zhongliang of Shanghai remained under surveillance and often had his movements restricted. A delegation of American religious leaders was prevented from seeing him when they visited Shanghai in February. In November Roman Catholic priest Li Qinghua was arrested. According to press reports, Li has been tortured since his arrest, including by being forced to have sexual intercourse with prostitutes.

Religious groups that preached beliefs outside the bounds of officially approved doctrine--such as the coming of the Apocalypse--often were singled out for harassment. Police continued their efforts to close down an underground evangelical sect called the "Shouters," a branch of a pre-1949 indigenous Protestant group. The sect has been deemed an antigovernment, counterrevolutionary "cult." Since the early 1980's, authorities repeatedly have detained, fined, or imprisoned its members. Independent observers report an increase of nontraditional sects in recent years.

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Government places some restrictions on freedom of movement. The effectiveness of the Government's household registration/identification card system, used to control and restrict the location of individual residences, continued to erode. The "floating population" of economic migrants leaving their home areas to seek work elsewhere in the country is estimated to be between 80 and 130 million. This group comprises not only migrant workers, but also includes a growing number of middle-class professionals attracted to large cities by hopes of better paying jobs in their fields. This itinerant population lacks official residence status, which is required for full access to social services and education. Unless such persons obtain resident status, they must pay a premium for these services. However, some cities, such as Beijing, are beginning to offer social services free of charge. In August the Public Security Ministry issued revised regulations that allow persons from the countryside to apply for permanent residence in a city if: 1) They have investments or property in a city; 2) they are elderly and have children who live in a city; or 3) their spouses live in a city.

Several dissidents reported that the authorities had restricted their freedom of movement at politically sensitive periods. In June Mu Chuangchang, who was visiting Beijing at the time, apparently was detained and sent back to Qingdao by police prior to President Clinton's arrival in China. Before his arrest in Wuhan at the end of the year, dissident Qin Yongmin said that he was prevented repeatedly from going to Beijing to visit his daughter, who lived with his ex-wife there. Others were kept under close surveillance. In October Beijing police blocked a group of dissidents who tried to drive to Shandong in a demonstration of support for Xie Wangjun (see Section 1.f.).

Under the "staying at prison employment" system applicable to recidivists incarcerated in reeducation-through-labor camps, authorities have denied certain inmates permission to return to their homes. Those inmates sentenced to more than 5 years in reeducation-through-labor camps also may lose their legal right to return home. For those assigned to camps far from their residences, this practice constitutes a form of internal exile. The number of prisoners subject to this restriction is unknown. Authorities reportedly have forced others to accept jobs in state enterprises where they can be monitored more closely after their release from prison or detention. Other released or paroled prisoners returned home but were not permitted freedom of movement. Chen Ziming, who was paroled on medical grounds in November 1996, remained confined to his home except for police-escorted visits to doctors. A former senior leader remained under house arrest, and security around him was tightened routinely during sensitive periods, such as the anniversary of the Tiananmen massacre and during the visits of important foreign leaders. A former aide of this individual, Bao Tong, who was released in 1997, remained closely monitored.

The Government permits legal emigration and foreign travel for most citizens. The Government continued to use political attitudes as criteria for selecting persons for government-sponsored study abroad. However, it did not control privately sponsored students, who constitute the majority of Chinese studying abroad. Business travelers wishing to go abroad can obtain passports relatively easily. Permission for couples to travel abroad sometimes was conditioned on agreement to delay childbirth. In Xinjiang a businesswoman and former member of the Chinese People's Consultative Conference reportedly has been deprived of her passport and cannot leave Urumqi without police authorization. The Government continued efforts to attract persons who had studied overseas back to China. Official media have said in the past that persons who have joined foreign organizations hostile to China should quit them before returning home and refrain while abroad from activities that violate China's laws.

Wang Dan was released from prison on medical parole in April on the condition that he leave the country for medical treatment. The Government subsequently issued passports to Wang's parents,

sister, and niece, allowing them to visit him. Wei Jingsheng's family members also were allowed to visit him in exile. In March Shanghai dissident Xu Shuiliang and his family were allowed to leave China. In contrast, Beijing activist Ren Wanding was denied a passport because his "political rights" still had not been restored after his release from prison. In May the wife of Wang Xizhe, who escaped China in 1996, was denied permission to meet her husband in Macao. Bao Tong reportedly was refused a passport to visit his son abroad.

There were also instances when the authorities refused visas or entry on apparent political grounds. International observers and human rights organizations reported that they had documents that substantiated claims that border control stations keep background records of certain individuals who are to be denied entry. Authorities have denied these reports. In October Thomas Keng Lu, a U.S. citizen who works for a Taiwanese magazine, was denied entry into the mainland, apparently for helping former Hong Kong Xinhua (the official New China News Agency) bureau chief Xu Jiatus flee the country in 1989 after the Tiananmen crackdown. Li Xiaorong, a U.S. citizen, university lecturer, and vice chairwoman of Human Rights in China, was expelled after arriving at her parents' home for a visit in April. Also in April, democracy activist Frank Woo was turned back at the Beijing airport. Two foreign-based dissidents, Zhang Lin and Zhou Quanbao were detained and sentenced to 3 years' reeducation through labor after returning to China illegally. According to press reports, Chinese authorities also detained and deported Yan Dunzheng, a U.S. citizen, who met in Qingdao with the sister of imprisoned dissident Sun Weibang in October. Foreign academics with contacts with the dissident community also repeatedly have been refused entry visas. In contrast, Chen Yizi, an ex-aide to a former, senior Communist Party leader and the highest ranking official to flee to the West after the 1989 Tiananmen massacre, was allowed to return in July to visit his ailing mother.

The Government does not provide first asylum. However, since the late 1980's, China has adopted a de facto policy of tolerance toward the small number of persons--fewer than 100 annually--from other nations who have registered with the Beijing office of the United Nations High Commissioner for Refugees (UNHCR) as asylum seekers. The Government has permitted these persons to stay in China while the UNHCR makes determinations as to their status and--if the UNHCR determines that they are bona fide refugees--while they await resettlement in third countries. As yet, China has no law or regulations that authorize the authorities to grant refugee status, but the Government reportedly continues to draft working rules on granting such status.

The Government continued to accept the repatriation of citizens who had entered other countries or territories illegally. The authorities have accepted the return of would-be illegal emigrants to the United States, Hong Kong, and Australia, provided that their identity can be verified.

The Government has worked with Laos and Cambodia to facilitate the return of resettled individuals who have decided to return to their home countries. The Government denies having tightened its policy on accepting Vietnamese asylum seekers. Due to the stable situation in Vietnam with regard to ethnic Chinese and the increasingly porous border between the two countries, very few Vietnamese have sought resettlement in China in recent years.

**There were no confirmed reports of the forced return of persons to a country where they feared persecution.**

### **Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government**

Citizens lack the means to change their government legally and cannot freely choose or change the laws and officials that govern them. Citizens vote directly for local nongovernmental village

committees, and among party-reviewed candidates for delegate positions in town and township and county-level people's congresses. However, people's congress delegates at the provincial level, are selected by county-level people's congresses, and in turn provincial-level people's congresses select delegates to the National People's Congress (NPC). Although the CCP vets all candidates, many county and provincial elections are competitive, with more candidates running than there are seats available.

According to the Constitution, the NPC is the highest organ of state power. Formally it elects the President and Vice President, selects the Premier and vice premiers, and elects the Chairman of the State Central Military Commission. In practice the NPC Standing Committee oversees these elections and determines the agenda and procedure for the NPC under the direct authority of the Politburo Standing Committee. At the 1998 session of the NPC, slightly over 45 percent of the delegates--the largest negative vote ever--voted against or abstained from voting on the Supreme People's Procuratorate work report, close to the 50 percent needed to reject a government-sponsored motion. Most observers interpreted the vote, which expressed delegate unhappiness about the problems of crime and corruption, as reflecting the NPC's increased willingness in recent years to question the Government's performance. Although the NPC does not have the power to set policy or remove government or party leaders, some 35 percent of NPC delegates opposed the candidacy of Han Zhubin, a protege of President Jiang who had been nominated to be the new procurator-general. Government officials cited the NPC's new willingness to voice its displeasure, especially toward government corruption and the weak judicial system, as a main reason behind the Government's high profile campaign against official malfeasance and its focus on the rule of law.

In general, the election and agenda of people's congresses at all levels remain under the firm control of the Communist Party, the paramount source of political authority. A number of small "democratic" parties that date from before the Communist takeover in 1949 play a minor consultative role and must pledge their allegiance to the Communist Party. The CCP retains a tight rein on political decisionmaking and forbids the creation of new political parties. Starting in June, activists in a number of provinces repeatedly tried to register the first true opposition political party--the China Democracy Party (CDP)--with local civil affairs offices (see Section 2.b.). The first group of petitioners, led by Wang Youcui in Hangzhou, were detained for various periods of time, but subsequent attempts over the next few months by activists did not automatically result in detention. In some cases, local authorities explained to dissidents the proper procedures and minimum qualifications necessary to register a social organization. However, none of the applications was approved, and in November authorities began a crackdown on members of the CDP and its supporters. At year's end, Wang Youcui, Xu Wenli, and Qin Yongmin had been arrested, tried, and given harsh sentences ranging from 11 to 13 years for their political activities. Dozens of others were in detention or under tight surveillance. NPC President Li Peng was widely quoted as saying that groups that "seek a multiparty system and try to negate the leadership of the Communist Party will not be allowed to exist."

At the same time, democratic decisionmaking continued to grow as the local village committee elections program expanded. Under the 1987 Organic Law of the Village Committees, all of China's approximately 1 million villages are expected to hold competitive, direct elections for village committees. The NPC Standing Committee in November passed a revised version of the law, which called for enhancements in the electoral process, including substantial improvements in the nominating process and the required use of voting booths. It also provided for improved transparency in village committee administration and appears to boost the authority of the village committees over communally owned properties.

Both the Government and foreign observers estimate that more than 90 percent of villages have participated in elections for local leaders. According to the Ministry of Civil Affairs, the majority of provinces have carried out at least two rounds of village elections, 18 provinces have held three elections, and 4 provinces have held four ballots. Foreign observers who have monitored local village committee elections, including the Carter Center and the International Republican Institute, have judged the elections they observed, on the whole, to be fair. However, many villages have yet to hold truly competitive elections. The Government estimates that one-third of all elections have procedural flaws. Successful village committee elections have included secret ballots to select candidates, active campaigns by multiple candidates, platforms, and the use of secret ballots in the election itself.

Candidates favored by local authorities have been defeated in some elections, although in general the party dominates the electoral process, and roughly 60 percent of the members elected to the village committees are party members. The final ballot is the culmination of an election process that includes government screening of candidates and an indirect vote that eliminates some candidates. Many observers caution that the village election system is not necessarily a precursor for democracy at higher levels of government, and village elections--as currently practiced--do not threaten to undermine the implementation of unpopular central policies or endanger the leading role of the Communist Party. There were credible reports in November that the election of dissident Yu Tielong to head the Wangshanding village committee was nullified by the local Communist Party committee. The nongovernmental elected village committees are not part of the formal government structure. The powers of elected village committees vary from region to region. Most committees have the authority to mediate disputes between villagers, improve public order, and authorize small expenditures. The committees also carry out political work by serving as a channel of communication between villagers and the Government. The village committees have no power to tax, set fines or punishments independently, or hire or fire village enterprise managers.

A recent development, which the Government has encouraged, is the formation of villagers' representative assemblies that oversee the performance of the village committees. According to a government report, such village assemblies have been operating in Zhaoxian County, Hebei province since 1996. In 1997 assemblies in the county reportedly removed 54 corrupt or incompetent village committee members and vetoed 72 "unreasonable development projects."

The Government places no restrictions on the participation of women or minority groups in the political process. Women freely exercise their right to vote in village committee elections, but only a small fraction of elected members are women. For example, in Hubei province, villagers elected 31,692 village committee chairmen and 803 chairwomen. The Government and party organizations include approximately 12 million female officials out of 58 million party members. Women constitute 22 percent of the National People's Congress. The 15th Party Congress elected 22 women to serve as members or alternates on the 193-person Central Committee, an increase over the total of the previous committee. However, women still hold few positions of significant influence at the highest rungs of the party or government structure. One alternate member of the 22-member Politburo is a woman, and women hold 2 of 29 ministerial-level positions.

Minorities constitute 14 percent of the National People's Congress. All of China's 56 nationalities are represented in the NPC membership. The 15<sup>th</sup> Party Congress elected 38 members of ethnic minorities to serve as members or alternates on the Central Committee, an increase over the total of the previous committee. However, minorities hold few senior party or government positions of significant influence.

## **Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

There are no independent domestic NGO's that publicly monitor or comment on human rights conditions. Over the past year, a network of dissidents in cities around the country grew to become a credible source of information about government actions taken against activists. The information is disseminated to the outside world through organizations such as the Hong Kong-based Information Center for Human Rights and Democratic Movement and the New York-based Human Rights in China. In October a group called Corruption Watch formed by dissidents in Xinyang reportedly was deemed illegal and closed down by authorities who claimed that the Government already had agencies working to fight corruption. The press regularly prints stories about officials who exceed their authority and infringe on citizens' rights. However, the Government remains reluctant to accept criticism of its human rights record by other nations or international organizations and criticizes reports by international human rights monitoring groups, maintaining that they are inaccurate and interfere with the country's internal affairs. The Government still maintains that there are legitimate, differing approaches to human rights based on each country's particular history, culture, social situation, and level of economic development. In 1993 the Government established the China Society for Human Rights, a "nongovernmental" organization whose efforts have been focused on defending the Government's views and human rights record.

China has active human rights dialogs with a large number of countries, including Great Britain, France, Australia, Canada, Norway, Sweden, Brazil, Japan, the United States, as well as the European Union (EU). In December as part of a bilateral rule of law initiative, the United States and China convened a bilateral symposium on the legal protection of human rights, a project originally proposed by the former Justice Minister. The Government held similar meetings, which increasingly included the participation of legal experts and not just foreign ministry officials, with Canada and the EU. In September the Government hosted the first visit by the UNHCHR. In October the Government hosted its first international conference on human rights, although no domestic critics of the Government were invited to attend. China is also greatly expanding the number and frequency of judicial exchanges with other countries. A China-UK "Legal Week" was held in Beijing in October. China, Germany, and the American Bar Association held a 4-day program in which mock criminal trials in both the German and American systems were demonstrated in front of Chinese judges and court administrators.

In October the Government signed the International Covenant on Civil and Political Rights. At year's end no timetable had been announced for ratification by the NPC.

## **Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status**

There are laws designed to protect women, children, the disabled, and minorities. In practice, however, societal discrimination based on ethnicity, gender, and disability persists. The concept of a largely homogeneous Chinese people pervades the thinking of the Han majority.

### **Women**

Violence against women can be grounds for prosecution under the law. Sociologists note that there has been no detailed research on the extent of physical violence against women. However, anecdotal evidence suggests that the reporting of domestic abuse is on the rise, particularly in urban areas, because greater attention has been focused on the problem. Informal surveys by women's groups

indicate that 20 percent of women may have been beaten by their husbands. Actual figures may be higher because spousal abuse still goes largely unreported. According to experts, the percentage of households in which domestic abuse has occurred is higher in rural areas than in urban centers. In September an official with the All China Women's Federation noted that there also had been a significant rise in domestic violence in the homes of workers laid off from state-owned enterprises.

In recognition of the seriousness of spousal abuse, some localities, such as Hunan province, have passed legislation to address the problem. However, some experts note that, even when appropriate legislation exists, local law enforcement authorities frequently choose not to interfere in what they regard as a family matter. There is no national spousal abuse law.

According to some estimates by experts, there may be up to 10 million commercial sex workers. The increased commercialization of sex and related trafficking in women has trapped tens of thousands of women in a cycle of crime and exploitation. It is estimated that there are 70,000 prostitutes in Beijing alone. Unsafe working conditions are rampant among the saunas, massage houses, and hostess bars that have sprung up in large cities. According to research done by medical professionals, up to 80 percent of prostitutes in some areas have hepatitis. The incidence of AIDS is a growing problem. Although the central Government and various provincial and local governments have attempted to crack down on the sex trade, there have been numerous credible reports in the media of official complicity in prostitution. Thus far actions to crack down on this lucrative business, which involves organized crime groups and business people, as well as the police and military, have been largely ineffective.

The abduction of women is a serious problem. The Government acknowledges that the kidnapping and sale of women for marriage or prostitution is a human rights abuse that warrants severe punishments for criminals involved with the trade, and continues to take steps to prevent the practice and punish those who engage in this trade. Media reports, as well as an Amnesty International report on capital punishment in China, cite numerous cases in which individuals received the death penalty for the crime of abducting women. Some research indicates that a key reason for the abduction and sale of women is a serious imbalance in sex ratios in certain localities (see Section 1.f.). This has created a situation in which the demand by men for marriageable women cannot be met by local brides. Some families address the problem by recruiting women in economically less advanced areas. Others seek help from criminal gangs, which either kidnap women or trick them by promising them jobs and an easier way of life and then transport them far from their home areas for delivery to buyers. Once in their new "family," these women are "married" and raped. Some accept their fate and join the new community; others struggle and are punished.

Crime experts say that many of the kidnappings also occur in provinces, such as Sichuan and Guangxi, where the male to female ratio generally is balanced. The Government reported that some of its efforts to end the illegal trade were successful.

There is no statute that outlaws sexual harassment in the workplace, although there has been some discussion by legislators about the need for such legislation. The problem remains unaddressed in the legal system and often in society. However, experts state that more women are raising their concerns about sexual harassment because of greater awareness of the problem.

Suicide of women is a serious problem in the countryside where highly toxic pesticides are readily available. According to the World Bank, Harvard University, and the World Health Organization, some 56 percent of the world's female suicides occur in China. Research indicates that the low status of women, the rapid shift to a market economy, and the availability of pesticides in rural areas are

among the leading causes.

The authorities have enacted laws and conducted educational campaigns in an effort to eradicate the traditional preference for sons; however, this preference remains strong in rural China. A number of provinces have sought to reduce the perceived higher value of boys in providing old-age support for their parents by establishing or improving pensions and retirement homes.

The central Government has made gender equality a policy objective since 1949. The Constitution states that "women enjoy equal rights with men in all spheres of life," including ownership of property, inheritance rights, and access to education. Women's economic and political influence has increased. Nonetheless, female activists are increasingly concerned that the progress that has been made by women over the past 50 years is being eroded and that women's status in society has regressed in the 1990's. They assert that the central Government appears to have made the pursuit of gender equality a secondary priority as it focuses on economic reform and political stability. Social and familial pressure also has grown for women to resume their traditional roles as wives and mothers. A recent study of women's role in the media reveals that images of women's worth increasingly are linked to their ability to attract a wealthy husband and be a good mother.

In 1992 the NPC enacted legislation on the protection of the rights and interests of women, which was designed to assist in curbing gender-based discrimination. However, in 1997 women continued to report that discrimination, sexual harassment, unfair dismissal, demotion, and wage discrepancies were significant problems. Efforts have been made by social organizations as well as the Government to educate women about their legal rights, and there is anecdotal evidence that women increasingly are using laws to protect their rights. Nevertheless, women encounter serious obstacles in getting laws enforced. The structure of the social system also prevents women from having a full range of options. For example, women who seek a divorce face the prospect of losing their housing since government work units allot housing to men when couples marry.

Women have borne the brunt of China's economic reform of state-owned enterprises. As the Government's plan to revamp state-owned enterprises is carried out, millions of workers have been laid off. Of those millions, a disproportionate percentage are women, many of whom do not have the skills or opportunities to find new jobs. Government statistics for 1997 show that while 42 percent of the work force in state-owned enterprises were female, more than 60 percent of the laid off workers have been women. Women between the ages of 35 and 50 were the most affected, and the least likely to be retrained. In addition, female employees were more likely to be chosen to take pay cuts when a plant or company was in financial trouble. Discriminatory hiring practices appear to be on the rise as unemployment rises. Increasingly, companies discriminate by both sex and age, although such practices violate labor laws. A store in Shenyang, a state-owned enterprise that had been bought out by a Hong Kong company, laid off 60 percent of its 200 employees--mostly middle-aged women. Those not laid off were all young women in their twenties.

Many employers prefer to hire men to avoid the expense of maternity leave and child care and some even lower the effective retirement age for female workers to 40 years of age. (The official retirement age for men is 60 years and for women 55 years.) Lower retirement ages have the effect of reducing pensions, which generally are based on years worked.

The law promises equal pay for equal work. According to a 1997 World Bank report, Chinese women, on average, earn between 80 and 90 percent of their male counterparts. Most women employed in industry work in lower skilled and lower paid jobs.

While the gap in the education levels of men and women is narrowing, men continue to constitute the majority of the relatively small percentage of the population that receives a university-level education. According to figures released by the All China Women's Federation, at the end of 1997, women made up 36 percent of all university students, and 30 percent of all graduate students. However, educators in the large cities have reported that there is a trend toward greater gender balance in universities. Some academics have reported that in some departments women are beginning to outnumber men--even in some graduate schools. However, women with advanced degrees report an increase in discrimination in the hiring process as the job distribution system has opened up and become more competitive and market-driven.

According to official figures, in 1995 there were 145 million illiterates above the age of 15. Women make up approximately 70 percent of this total. The Government's "Program for the Development of Chinese Women (1995-2000)" sets as one of its goals the virtual elimination of illiteracy among young and middle-aged women by the end of the century. The main priority is to increase the literacy of rural women, 80 percent of whom are wholly or partially illiterate. However, some women's advocates were skeptical that the Government's goal could be attained given the lack of resources.

#### Children

The Constitution provides for 9 years of compulsory education for children (see Tibet addendum). The 1992 Law on the Protection of Juveniles forbids infanticide, as well as mistreatment or abandonment of children. The law also prohibits discrimination against disabled minors, emphasizes the importance of safety and morality, and codifies a variety of judicial protections for juvenile offenders. The physical abuse of children can be grounds for criminal prosecution.

The extensive health care delivery system has led to improved child health and a sharp decline in infant mortality rates. According to 1997 official figures, the infant mortality rate was 33 per 1,000 in 1996. According to the U.N. Children's Fund (UNICEF), in 1995 the mortality rate for children under 5 years of age was 47 per 1,000 live births.

There were credible reports of female infanticide. The use of ultrasound tests to determine gender also results in decisions to terminate pregnancies of female fetuses, but no reliable statistics are available on the extent of the problem. One 1997 newspaper article quoted a doctor as saying that as many as 97.5 percent of pregnancies terminated in his hospital were of female fetuses. A 1997 World Health Organization paper reported that the national ratio of male to female births in 1994 was 117 to 100. (The worldwide statistical norm is 106 to 100.) Part of the statistical gap may be attributable to female infanticide, sex-selective termination of pregnancies, abandonment or neglect of girls. Underreporting of female births by couples trying to evade family planning laws to try to have a son is another significant factor (see Section 1.f.).

According to the latest available figures, compiled in 1994, the number of children abandoned each year is approximately 1.7 million, despite the fact that under the law child abandonment is punishable by fines and a 5-year prison term. The vast majority of those eventually admitted to orphanages are female, although some are disabled, or in poor health. Children put up for foreign adoption are almost exclusively girls. The treatment of children at these institutions varies from adequate to deplorable. There have been reports of children at some orphanages being restrained for long periods of time and being denied basic care and food. Accurate determination of infant mortality rates in orphanages is difficult, but rates appear to be very high at many, especially among new arrivals.

According to several sources, orphanage workers in some facilities reserve basic medical care and even nutrition for children who are deemed to have the best chances for survival. Some sources report that children whose prospects of survival are determined to be poor are placed in rooms separate from other children and subjected to extreme neglect. Claims that government policies, as opposed to lack of resources, were to blame for the lack of care of children placed in orphanages could not be verified. However, Human Rights Watch reported in 1996, that many institutions, including those with the highest death rates, have budgets that provide for adequate wages, bonuses, and other personnel-related costs, but that budgets for children's food, clothing, and other necessities are low throughout the country. There was a report that, at least in one orphanage, a new conference room was built while the facilities and care for orphans under the age of 2 remained abysmal. The mortality rate for children under the age of 2 at this institution reportedly approached 100 percent, even for those infants who entered in fair health. Bureaucratic indifference and corruption on the part of orphanage administrators appear to be significant factors in such cases.

The Government denies that children in orphanages are mistreated or refused medical care but acknowledges that the system is often unable to provide adequately for those children, especially those who are admitted with serious medical problems. In an effort to address this problem, the NPC adopted a revised adoption law in November making it easier for Chinese couples to adopt. The new law dropped a restriction that parents who adopt a child must be childless. It also allows for multiple adoptions and lowers the age at which couples are eligible to adopt. The Civil Affairs Ministry announced in 1997 that the Government's top social welfare priority for that year would be to improve conditions in orphanages, and there have been credible reports of new construction, renovation, and improved care in some areas. Over \$30 million (248.4 million rmb) reportedly was allocated for this program. A government white paper on women and children issued in 1997 stated that the central Government had spent \$25.7 million (212.8 million rmb) between 1990 and 1994 to improve "children's welfare institutions," the official term for orphanages. During the same period, local governments apparently allocated almost \$18 million (149 million rmb) to these institutions.

Despite government efforts to prevent kidnaping and the buying and selling of children the problem persists in some rural areas.

#### People With Disabilities

In 1990 the Government adopted legislation that protects the rights of the country's disabled persons. According to the official press, all local governments subsequently drafted specific measures to implement the law. The press publicizes both the plight of the disabled and government efforts to assist them. The Government, at times in conjunction with NGO's such as the Lions Club International, sponsors a wide range of preventive and rehabilitative programs, including efforts to reduce congenital birth defects, treat cataracts, and treat hearing disorders. The goal of many of these programs is to allow persons with disabilities to be integrated into the rest of society.

However, reality for the disabled lags far behind legal dictates. Misdiagnosis, inadequate medical care, pariah status, and abandonment remain common problems. In an October speech, Vice Premier Li Lanqing noted that, in the past decade, the Government had helped some 14 million disabled citizens solve their food and clothing problems. Nonetheless, government statistics show that almost one-quarter of the approximately 60 million disabled persons live in extreme poverty. According to official government statistics released in October, the unemployment rate for disabled persons is 26.7 percent, a decrease from the past, but still almost 10 times the official rate for the general population. The Government's new strategy is to integrate the disabled into the mainstream work force, but these

efforts are running into a cultural legacy of discrimination and neglect, as well as a slowing economy. In the mid-1990's in Beijing and eight other cities, the Government began, on a trial basis, to require all companies and institutions to hire at least 1 percent of its workers from among the disabled. However, over a period of 2 years in Beijing, only 400 disabled persons obtained jobs this way; in Shanghai, over a period of 3 years, only 100 persons obtained jobs.

Deng Pufang, son of the late paramount leader Deng Xiaoping, heads the China Welfare Fund for the Handicapped and the China Disabled Persons' Federation (CDPF), government-affiliated organizations tasked with assisting the disabled. In March the CDPF laid out a series of goals to achieve by the year 2000, including ensuring that all persons with disabilities have adequate food and clothing, providing rehabilitation services for 3 million individuals, increasing to 80 percent the enrollment rate for disabled students, and reducing to 20 percent the unemployment rate for disabled workers.

The Maternal and Child Health Care Law forbids the marriage of persons with certain specified contagious diseases or certain acute mental illnesses such as schizophrenia. If doctors find that a couple is at risk of transmitting disabling congenital defects to their children, the couple may marry only if they agree to use birth control or undergo sterilization. This law mandates premarital and prenatal examination for genetic or contagious diseases, but it specifies that medically advised termination of pregnancy or sterilization requires the signed consent of the patients or their guardians.

In November China revised its adoption law to loosen age restrictions on adoption. This change, which was intended to facilitate adoption, may have unintended consequences for children with special needs. In the past, individuals under the age of 35 could adopt only children with special needs. The minimum age for adopting a healthy child is now set at 30 instead of 35. Some observers worry that when the law becomes effective on April 1, 1999, the lowered minimum age will eliminate the age-based incentive for such adoptions.

Standards adopted in 1994 for making roads and buildings accessible to the disabled are subject to the 1990 Law on the Handicapped, which calls for their "gradual" implementation. Lax compliance with the law has resulted in only limited access to most buildings.

#### National/Racial/Ethnic Minorities

According to 1995 government statistics, the total population of the country's 55 ethnic minorities was 108.46 million, or 8.98 percent of the national population. Most minority groups reside in areas they traditionally have inhabited, many of which are mountainous or remote. The Government's avowed policy on minorities calls for preferential treatment in marriage regulations, family planning, university admission, and employment. Programs have been established to provide low-interest loans, subsidies, and special development funds for minority areas. Nonetheless, in practice, minorities face discrimination. Most of the minorities in border regions are less educated than the national average, and job discrimination in favor of Han migrants remains a serious problem. Racial discrimination is the source of deep resentment on the part of minorities in some areas, such as Xinjiang and Tibet; however, China does not openly recognize Han racism against minorities as a problem or tension among different ethnic groups as a problem.

Official figures state that the Government invested \$12.6 billion in infrastructure development for minority areas during the period 1991 to 1995. The ninth 5-Year Plan announced in 1997 stated that the Government would raise this figure to \$27.8 billion for the period from 1996 to 2000. According to government statistics, between 1991 and 1996 the economies in minority regions grew by nearly

11 percent annually, surpassing the national average in each year. Government development policies have helped improve minority living standards. However, real incomes in minority areas, especially for non-Han groups remain well below those in other parts of the country, and minorities credibly claim that Han Chinese have benefited disproportionately from government programs and economic growth. Many development programs have disrupted traditional living patterns of minority groups, including Tibetans and the Muslim Uyghur majority of western Xinjiang. For example, there is some evidence that official poverty alleviation programs include the forced evacuation of persons from the poorest mountain areas. Plans to develop tourism in Xinjiang also often have focused on marketing and investment opportunities but paid little attention to how minority cultures and the environment might be affected adversely. Some projects, however, have been dropped for environmental reasons--for example, a proposal to build a railway around Lake Tianshi near Urumqi. Since 1949 central government and economic policy have resulted in a significant migration of Han Chinese to Xinjiang. In 1997 there were 8 million Uyghurs and 7 million Han in Xinjiang, up from 300,000 Han in 1949.

According to official government statistics, 15.34 million minority students attended schools between 1994 and 1996. A 1997 white paper stated that 98.16 percent of all school-age children in the Guangxi Zhuang Autonomous Region were enrolled in schools in 1996. In many areas with a significant population of minorities, there are two-track school systems using either Mandarin or the local minority language. Students can choose to attend schools in either system. One acknowledged side effect of this policy, originally designed to protect and maintain minority cultures, has been reinforcement of a segregated education system. Under this divided education system, those graduating from minority schools are at a disadvantage in competing for jobs in government and business, which require good Chinese-language skills. Graduates of these schools typically need a year or more of intensive Chinese before they can cope with course work at a Chinese-language university (see Tibet addendum).

The Communist Party has an avowed policy of boosting minority representation in the Government and the party. In 1997 the official press reported that there were 2.48 million minority officials in the Government. According to government statistics, there were 163,000 minority officials in the Inner Mongolia Autonomous Region. Minority officials constitute 23.3 percent of the region's total, exceeding the ratio of the minority population to Han Chinese in the region. Many members of minorities occupy local leadership positions, and a few have positions of influence at the national level. However, in most areas ethnic minorities are shut out of positions of real political and decisionmaking power. In Xinjiang the job of county party secretary--the most important position in a county--typically is reserved for Han Chinese, even in counties that are close to 100 percent Uyghur. Many minorities resent Han officials holding key positions in minority autonomous regions.

Tensions between ethnic Han citizens and Uyghurs in Xinjiang continued. There were a number of reports of bombings and killings of policemen in Xinjiang by Uyghur separatist groups (see Section I.a.). Since 1996 the authorities have been cracking down harshly on suspected Uyghur nationalists and independent Muslim religious leaders. This crackdown intensified during the year as the number of anti-Chinese demonstrations grew and a series of bomb explosions and violent incidents occurred. According to Amnesty International (AI), thousands of persons have been detained arbitrarily, including some for their suspected support of the nationalist cause. AI has reported instances of torture. In 1998, 14 Uyghurs were executed allegedly for "terrorist" and "separatist" offenses.

A campaign to stress ethnic unity and to condemn "splittism" and religious extremism that began in Xinjiang in 1997 continued during the year. This campaign pervades the Chinese-language media and reaches into the province's 1,500 schools. Authorities maintained tight control over separatist activities, announced tightened security and antiterrorist measures, and mounted several campaigns to

crack down on opposition during the year.

According to some estimates, the migration of ethnic Han into Xinjiang in recent decades has caused the Han-Uyghur ratio in the capital of Urumqi to shift from 20 to 80 to 80 to 20, and is a source of Uyghur resentment. Han control of the region's political and economic institutions also has been a factor in the growth of tension. The testing of nuclear weapons in Xinjiang in past years is another source of serious contention because of continuing health concerns and environmental degradation. There has been no testing of nuclear weapons in Xinjiang since July 1996, after which China signed the Comprehensive Test Ban Treaty. Although government policies have brought tangible economic improvements, Uyghurs maintain that they receive only a small share of the benefits. The majority of Uyghurs are poor farmers and 25 percent are illiterate.

The education system provides Chinese-language instruction for Han students and the Uyghur-language instruction for Uyghur students until fourth grade and then gradually switches to Chinese as the principal language of instruction. Graduation from the Uyghur school system leaves Uyghurs poorly educated, with an inadequate command of the Chinese language.

Possession of separatist publications is not permitted, and, according to reports, possession of such materials has resulted in lengthy prison sentences. A Uyghur-language press exists in Xinjiang, but it has a very small circulation, and much of the population depends on market rumor for information. In general, central authorities made it clear that they do not tolerate opposition to Communist Party rule and responded to unrest and terrorist incidents with force and heightened security measures.

## **Section 6 Worker Rights**

### **a. The Right of Association**

The Constitution provides for "freedom of association," but qualifying language makes it clear that this right is subject to the interests of the State and the leadership of the Communist Party. The Communist Party controls the country's sole officially recognized workers' organization, the All China Federation of Trade Unions (ACFTU). The head of the ACFTU is a member of the Standing Committee of the Central Committee of the CCP. Independent trade unions are illegal. The 1993 Trade Union Law required that the establishment of unions at any level be submitted to a higher level trade union organization for approval. Following the signing of the International Covenant on Economic, Social, and Cultural rights in 1997, a number of labor activists petitioned the Government to establish free trade unions as allowed under the covenant. The Government so far has not approved the establishment of any unions.

Under China's planned economy, the ACFTU's main task was to improve labor discipline, mobilize workers to achieve party and government objectives, and dispense social welfare funds. As increasingly large numbers of workers, who have been laid off as the result of state-owned enterprise reform, engaged in demonstrations, the ACFTU has attempted to respond. In April ACFTU officials stated that "the greatest danger presently threatening the trade unions' survival is that they have lost their close relationship with the broad masses of the workers." The Government has instructed the ACFTU to play a more active role in protecting the rights of the large and growing number of laid off workers and in assisting the Government with the reemployment process. The ACFTU contributed \$250 million in relief funds for laid off workers, offered 700,000 union jobs to displaced workers, and established vocational training centers. Workers laid off by a state enterprise lose employment, but not other benefits. In contrast, unemployed workers are workers without a work unit and thus without benefits. Most unemployed workers lack the resources to sustain themselves and their

families adequately in the absence of a meaningful social safety net.

The ACFTU's primary attention remains focused on workers in the state sector, where it has over 90 million members. The Trade Union Law mandates that workers may decide whether to join the union in their enterprises. There have been no reports of repercussions for those 5 percent of the workers who have not joined ACFTU unions. In 1994 the ACFTU actively began recruiting workers in the private sector, including in township and village enterprises (TVE's), as well as in foreign joint ventures. According to official statistics reported in mid-1996, 4.54 million workers in enterprises with foreign investment, 75 percent of the total, were members of ACFTU unions.

Despite these recruiting efforts, over half of the nonagricultural work force is still largely unorganized and outside the state industrial structure. In TVE's only a tiny percentage of workers are organized in ACFTU affiliates. Although some TVE's have local branches of the ACFTU, most TVE managers maintain that an ACFTU presence is not feasible because their employees continue to be classified as "farmers" rather than "workers." However, some Communist Party secretaries in TVE's take it upon themselves to establish union representation and then affiliate with the ACFTU.

The Government has attempted to stamp out illegal union activity. Li Qingxi was picked up at his home in January after he publicly posted a declaration calling for free and independent trade unions. Although formally sentenced to 1 year of reeducation through labor, Li was allowed to serve out his sentence at home, and activists reported that his movements were not restricted. In February Tan Li, one of the founders of the independent labor group the China Labor Alliance, was arrested in Guangzhou. Also in February Tu Guangwen, who had led a group of protesting laid-off workers in an October 1997 demonstration, was sentenced to 3 years in prison. Zhou Guoqiang, who was released in January after spending nearly 4 years in a reeducation camp, was detained temporarily in Beijing on April 30. Observers speculated that the central Government feared that Zhou would incite laid-off and redundant workers to establish independent unions. Zhang Shanguang was arrested in July for trying to establish an organization to defend the rights of laid-off workers. . In December Zhang was sentenced to a 10-year prison term on charges of "illegally providing intelligence to a foreign organization." He had spoken to a Radio Free Asia reporter about a demonstration by 80 farmers who were protesting excessive taxes. In August labor activist Li Bifeng was sentenced to 7 years' imprisonment for fraud. However, human rights groups maintain that Li was framed for leaking reports of wide-scale demonstrations in Sichuan province in 1997. In December labor activist Qin Yongmin, who earlier in the year issued public calls for increased worker rights without repercussions, was sentenced to a 12-year prison sentence on charges of "inciting the overthrow of state power," primarily because of his political activities.

The Constitution does not provide for the right to strike. Strikes are not officially sanctioned, and accurate statistics on strike incidents are not available. However, there have been numerous reports from both foreign and Chinese sources that there has been a marked increase in the number of strikes, work stoppages, and worker demonstrations. There have been credible reports that the central Government for the most part has used minimal force to resolve labor conflicts and refrained from detaining large numbers of participants.

The Trade Union Law assigns unions the role of mediators or go-betweens with management in cases of work stoppages or slowdowns. In addition, a workers' dispute settlement procedure, in effect since 1987, provides for mediation, two levels of arbitration committees, and a final appeal to the courts. The Ministry of Labor and Social Security (MOLSS) has established a nationwide organizational network for handling labor disputes, consisting of 270,000 enterprise labor dispute mediation commissions and 3,159 labor dispute arbitration commissions. There are 1,569,000 full- and part-

time enterprise mediators and more than 17,000 labor arbitrators. In May the ACFTU reported that in 1997 there had been more than 71,000 cases of labor-management disputes. This was double the number reported by the ACFTU in 1995.

There are no provisions allowing for individual workers or unofficial worker organizations to affiliate with international bodies. However, the ACFTU has tried actively to foster relations with other international trade unions. According to the ACFTU, by the end of 1997 it had established exchanges and cooperative relations with 419 trade unions and international and regional trade organizations in 131 countries and regions. In the past 2 years the ACFTU has sent over 400 of its officials overseas to study labor relations, labor laws, labor-management negotiations, social security, and cooperation mechanisms among trade unions.

#### b. The Right to Organize and Bargain Collectively

The 1995 National Labor Law permits collective bargaining for workers in all types of enterprises. The law also provides for workers and employers at all types of enterprises to sign individual as well as collective contracts. Collective contracts are to be worked out between ACFTU or worker representatives and management and specify such matters as working conditions, wage distribution, and hours of work. Individual contracts are then to be drawn up in line with the terms of the collective contract. Collective contracts must be submitted to local government authorities for approval within 15 days. According to an official report, 97.3 percent of urban state-sector workers had signed contracts by the end of 1997.

The MOLSS uses four methods to set a total wage bill for each collective and state-owned enterprise: 1) as a percentage of profits, 2) as a contract amount with the local labor bureau, 3) as a state-set amount for money-losing enterprises, or 4) as an enterprise-set amount subject to Labor Ministry review. Individual enterprises determine how to divide the total among workers, a decision usually made by the enterprise manager in consultation with the enterprise party chief and the ACFTU representative. In practice, however, only a small number of workers with high technical skills can negotiate effectively on salary and fringe benefits.

Worker congresses, which are held once or twice a year, have been established in over 300,000 enterprises. The congresses are now involved in examining enterprises' reform plans and in promoting or dismissing factory leaders. A number of provincial ACFTU chairmen have called for further strengthening the power of the congresses--particularly on the sale and merger of enterprises. The congresses are attended either by all enterprise employees or their representatives. Since 1989 ACFTU leaders have attempted to make worker congresses more responsive to the basic welfare concerns of ordinary workers and reduced the emphasis on purely ideological concerns.

However, the use of these rights varies widely. Many worker congresses continue to act largely as rubber stamps for deals hammered out by the manager, union representative, and the party secretary. In smaller enterprises it is not unusual to find these three posts held by the same person. The Trade Union Law prohibits antiunion discrimination and specifies that union representatives may not be transferred or terminated by enterprise management during their term of office. Unionized foreign businesses generally report pragmatic relations with ACFTU representatives.

Laws governing working conditions in special economic zones (SEZ's) are not significantly different from those in the rest of the country. However, wages in the SEZ's and in southeastern China generally, are significantly higher than in other parts of the country because high investment has created a great demand for available labor. As in other areas of the country, officials admit that some

foreign investors in SEZ's are able to negotiate "sweetheart" deals with local partners that effectively bypass labor regulations.

c. Prohibition of Forced or Compulsory Labor

Forced labor is a problem. Some penal facilities contract with regular industries for prisoners to perform manufacturing and assembly work. In 1991 the Government published a reiteration of its regulations barring the export of prison-made goods. These regulations have not been enforced effectively. In 1998 there were reports that Adidas World Cup soccer balls were produced for export by prisons in the Shanghai area. A request for investigation of the allegations was made to the Government in October; there has been no response to date.

In 1992 the U.S. and Chinese Governments signed a Memorandum of Understanding (MOU) prohibiting trade in prison labor products. A statement of cooperation (SOC) detailing specific working procedures for implementation of the MOU was signed in 1994. Although the signing of the SOC initially helped foster a more productive relationship between U.S. Customs and Chinese authorities, cooperation overall has been inadequate. In 1998 U.S. Customs unsuccessfully pursued eight standing requests--seven of them dating back to at least 1995--to visit sites suspected of exporting prison labor products. Customs also referred three new investigative requests during the year to the authorities. In all the cases, the Ministry of Justice refused the request, ignored it, or simply denied the allegations made without further elaboration.

In addition to prisons and reform-through-labor facilities, which hold inmates sentenced through judicial procedures, the Government also maintains a network of reeducation-through-labor camps, where inmates are sentenced, without judicial review, through administrative procedures (see Section 1.e.). Inmates of reeducation-through-labor facilities generally are required to work, and there have been reports that products made in these facilities are exported. The Government has taken the position that the facilities are not prisons and has denied access to them under the 1992 prison labor MOU with the United States. Credible reports from international human rights organizations and the foreign press indicate that some persons in pretrial detention also are required to work.

Most anecdotal reports conclude that work conditions in the penal system's light manufacturing factories are similar to those in other factories, but conditions on the penal systems farms and in mines can be very harsh. As in many workplaces, safety is a low priority. There are no available figures for deaths and injuries in prison industries.

Trafficking in women, and the kidnapping and sale of women and children for prostitution is a problem (see Section 5).

The Government prohibits forced and bonded labor by children and enforces the prohibition effectively.

d. Status of Child Labor Practices and Minimum Age for Employment

The National Labor Law specifies that "no employing unit shall be allowed to recruit juveniles under the age of 16," 2 years above the International Labor Organization (ILO) standard of 14 years for developing countries. Administrative review, fines, and revocation of business licenses of those businesses that hire minors are specified in the Labor Law. The law also provides for children to receive 9 years of compulsory education and to receive their subsistence from parents or guardians.

Laborers between the ages of 16 and 18 are referred to as "juvenile workers," and are prohibited from engaging in certain forms of physical work, including labor in mines.

Neither the ILO nor UNICEF believe that there is a significant child labor problem in the formal sector. Good public awareness, a cheap, abundant supply of legal young adult workers, nearly universal primary schooling, and labor law enforcement all serve to reduce opportunities and incentives to hire child workers. In view of this ample supply of adult laborers, most employers choose not to risk fines and possible arrest by hiring underage workers. Furthermore, many foreign businesses in more developed areas follow codes of conduct that set standards for labor conditions and provide for independent inspections. However, in poorer, isolated areas child labor in agriculture is widespread.

The Government prohibits forced and bonded labor by children and enforces the prohibition effectively (see Section 6.c.).

#### e. Acceptable Conditions of Work

The Labor Law codifies many of the general principles of labor reform, setting out provisions on employment, labor contracts, working hours, wages, skill development and training, social insurance, dispute resolution, legal responsibility, supervision, and inspection. There is no national minimum wage; the Labor Law allows local governments to determine their own standards on minimum wages. In general, minimum wage level determinations are higher than the local poverty relief ceiling but lower than the current wage level of the average worker. In general minimum wages are sufficient to provide a decent standard of living for a worker and family. The growing problem of unemployment has diverted attention to discussion of minimum standard of living allowances. There were no media reports of increasing wages during the year.

In April the Government announced that 400 of the country's 600 cities had established a system to ensure a minimum standard of living. The Government expects this system to be in effect nationwide by the end of 1999. Government officials estimate that over 6 million people would qualify for benefits under this new system. The minimum standard of living varies from region to region. In Beijing the minimum per capita income was set at \$24 (200 rmb) per month. In addition to this stipend, families living below the poverty line are eligible for subsidized food, medical services, housing, and funds to enable school-age children to complete the compulsory education program. Shenyang, the largest city in northeast China, has set the per capita monthly income at \$18.25 (150 rmb). In east China's Zhejiang province, the minimum standard of living is set on a sliding scale ranging from \$0.76 to \$20 per family member (6.3 to 165 rmb). According to the State Statistical Bureau the annual per capita disposable income of Chinese urban residents in 1997 was \$620 (5,133 rmb) an increase of 3.4 percent in real terms from 1996. The net income of rural residents was \$251 (2,078 rmb), an increase of 4.6 percent in real terms from the previous year. Official figures for the first three-quarters of 1998 indicate that while urban incomes are continuing to increase, rural incomes are decreasing, widening the already large gap between the living standards of the 900 million peasants and those of urban workers. The ratio between average incomes in coastal provinces and interior provinces has been estimated credibly to be 12 to 1.

The Government reduced the national standard workweek in 1995 from 44 hours to 40 hours, excluding overtime. The Labor Law mandates a 24-hour rest period weekly and does not allow overtime work in excess of 3 hours a day or 36 hours a month. It also sets forth a required scale of remuneration for overtime work. Enforcement of regulations governing overtime work varies according to region and type of enterprise.

Occupational health and safety are constant themes of posters and campaigns. Every work unit must designate a health and safety officer, and the International Labor Organization (ILO) has established a training program for these officials. Nonetheless, there is a high rate of industrial accidents, with most of the accidents occurring in the mining sector. According to a report released in June by the MOLSS and the State Statistical Bureau, there was a drop in the number of industrial accidents in 1997. However, official figures indicate that in fact there was an increase in the total number of accidents when compared with the official figures reported in 1996. In 1996 there were 18,181 industrial accidents, compared with 18,268 in 1997. Nonetheless, there was a decrease in accidents in the mining industry, which had 7,226 accidents, resulting in the deaths of 11,625 miners. In 1997, 119,000 persons died as a result of pneumoconiosis, a common disease among miners, which is caused by inhaling too much dust. Less than half of rural enterprises meet national dust and poison standards. Many factories that use harmful products, such as asbestos, fail not only to protect their workers against the ill effects of such products, but also to inform them about the potential hazards.

Poor enforcement by local officials of occupational safety and health regulations continues to put workers' lives at risk. The Government's attempts to improve work conditions have been inadequate. Existing safety regulations are inadequately enforced and a large number of unlicensed mines operated at the local level. Work safety issues have attracted the attention of senior government leaders. MOLSS officials, aware of the extremely poor mine safety record, have been seeking to expand foreign cooperation on mine safety. Additionally, the Government continues to work with the ILO on worker safety issues. The MOLSS announced in April that new technologies and facilities would be introduced to supplement legal and educational measures in order to control dust pollution in mines.

Although the Constitution does not provide for the right to strike, the Trade Union Law explicitly recognizes the right of unions to "suggest that staff and workers withdraw from sites of danger" and participate in accident investigations. However, it is unclear, to what extent workers actually can remove themselves from such dangerous situations without risking loss of employment.

## TIBET

(This section of the report on China has been prepared pursuant to Section 536 (b) of Public Law 103-236. The United States recognizes the Tibet Autonomous Region--hereinafter referred to as "Tibet"--to be part of the People's Republic of China. Preservation and development of Tibet's unique religious, cultural, and linguistic heritage and protection of its people's fundamental human rights continue to be of concern.)

### Respect for the Integrity of the Person

The Chinese Government strictly controls access to and information about Tibet. Thus, it is difficult to determine accurately the scope of human rights abuses. However, according to credible reports, Chinese government authorities continued to commit serious human rights abuses in Tibet, including instances of torture, arbitrary arrest, detention without public trial, and lengthy detention of Tibetan nationalists for peacefully expressing their political views. Tight controls on religion and on other fundamental freedoms continued, and intensified during the year. According to the Tibet Information Network (TIN) political protest by and detention of Tibetans is both increasing and spreading throughout ethnic Tibetan areas. TIN reports that the number of Tibetans resident outside of Lhasa or its seven counties who became political prisoners increased from 104 during the period from 1987 to 1992 to 367 during the period from 1993 to 1998, a 350 percent increase. For Lhasa counties the

increase was 14 percent. Although China agreed to discuss human rights issues with representatives of foreign countries and international organizations and to allow several official visits to Tibet, there has been no progress in transforming this into concrete improvements in Tibet. In February the Government issued a white paper describing what it viewed as progress in the human rights situation in Tibet.

Although the authorities permit many traditional religious practices and public manifestations of belief, those activities viewed as vehicles for political dissent are not tolerated and are promptly and forcibly suppressed. The security clampdown throughout China is being felt in Tibet, and Buddhism's "Great Tradition" came under increasing attack. Individuals accused of political activism faced ongoing and serious persecution during the year. Toward the end of 1998, the Government renewed its campaign to discredit the Dalai Lama and limit the power of religious persons and secular leaders sympathetic to him. Beginning in late fall, Tibet's official newspaper renewed its harsh propaganda against the Dalai Lama with articles condemning his "separatist activities." The "patriotic education" of monks and nuns continued to be an important part of the campaign, and was extended into monasteries throughout Tibet. Patriotic education has disrupted religious activities in many monasteries and some monks have fled to India to escape the campaigns. Government control over the monasteries remains tight. The ban on the public display of photographs of the Dalai Lama continued, although such pictures were easily available in Tibet and some monasteries and many individuals displayed them privately. There were reports of imprisonment and abuse or torture of monks and nuns accused of political activism, the death of prisoners, and the closure of several monasteries.

While there was limited political violence in Tibet during the year, a bomb exploded in Lhasa on June 24 outside a public security building. Although official government reports state that there were no deaths or injuries, it appears that at least five persons were hurt. While responsibility for the bombing has not been determined, the Government claimed that separatists were responsible. Foreigners, including international NGO personnel, experienced fewer restrictions on access to Tibet than in 1997, and several official delegations traveled to Tibet to discuss human rights issues. These included the U.N. High Commissioner for Human Rights, parliamentarians, a delegation of European Union ambassadors based in Beijing, and a delegation of foreign religious leaders. The Government tightly controlled these visits and delegation members had few opportunities to meet local Tibetans not previously approved by the local authorities.

Legal safeguards for ethnic Tibetans detained or imprisoned are the same as those in the rest of China and are inadequate in design and implementation. According to information gathered by the TIN, the average judicial sentence currently being served is 7.5 years compared with 5.8 years for the overall average since 1987. Trials are brief and closed. Lack of independent access to prisoners or prisons makes it difficult to assess the extent and severity of abuses and the number of Tibetan prisoners. One report put the number of political prisoners in Tibet at 1,083, including 246 women, as of December. The warden of Drapchi prison in Lhasa told a delegation of foreign religious leaders that there were 100 monks and nuns there, of whom 90 percent were incarcerated for "crimes against national security." TIN reports indicated that the rate at which Tibetan political prisoners are dying under detention or as a demonstrable result of detention shortly after release is increasing. An international NGO claimed that a 22-year-old monk, Yeshe Samten, imprisoned in 1996 for 2 years for taking part in a pro-Dalai Lama protest, died 6 days after his release from prison as result of torture suffered while incarcerated. According to TIN, female political prisoners, particularly those held at Lhasa's Drapchi prison, are at the greatest risk. The TIN reports that it confirmed six deaths in 1998 compared with two deaths in the period from 1987 to 1997. Drapchi's male political prisoners have died at a rate of about 1 in 40 in the 1987 to 1998 period. TIN also reports severe beatings of several

nuns serving long prison sentences including Ngawang Sangdrol, Ngawang Choezon, and Puntsog Nyidrol. According to credible reports, Chadrel Rinpoche, who was accused by the Government of betraying state secrets while helping the Dalai Lama choose the incarnation of the 11th Panchen Lama, has been held in a secret compound of a Sichuan prison where he has been separated from other prisoners, denied all outside contacts, and restricted to his cell, since his 1997 sentence to 6 years' imprisonment after a trial that was closed to the public.

An international NGO reported that Ngawang Choephel, a Tibetan ethnomusicologist sentenced to 18 years in prison for spying in 1996 was being held in a detention center near Shigatse, awaiting the results of an appeal in his case. His mother's appeals to be allowed to visit him have so far gone unanswered by the authorities.

There are many credible reports that prisoners are tortured, beaten, and otherwise mistreated. Authorities reportedly use beatings, electric shocks, suspension in painful positions, and other forms of torture or abuse.

Western press reports claimed that there were several demonstrations in Tibetan prisons during the year, and that the authorities suppressed them with force. Several of these demonstrations were said to have occurred in conjunction with planned prison visits by international delegations. According to several credible reports, there were demonstrations at Drapchi prison in Lhasa in May. Guards are said to have fired on a crowd of demonstrating prisoners to disperse the crowd. According to credible reports at least 10 and possibly as many as 11 persons were killed, some reportedly nuns. The Government denies that there were casualties. There were unconfirmed reports of reprisals against prisoners who participated in the demonstrations.

According to a reliable source, two Tibetan monks were arrested for preparing a letter to UNHCHR Robinson during her visit to China and Tibet in September. One of the monks, Ngawang Kyonmed, allegedly was beaten severely. His current whereabouts are unknown, as are the whereabouts of the second monk.

The letter expressed concern about the house arrest of the boy designated as the Panchen Lama by the Dalai Lama, and included references to the deaths in Drapchi prison.

Political prisoners have resisted political reeducation imposed by prison authorities, particularly demands to denounce the Dalai Lama and accept the Panchen Lama appointed by the Government. According to the TIN, punishments meted out to uncooperative prisoner leaders have resulted in hunger strikes among female prisoners on at least two occasions at Drapchi. According to TIN, officials are resorting to lengthening periods of solitary confinement to isolate demonstrators. TIN reports one case of two nuns who were still in solitary confinement in mid-1998 after having demonstrated in February 1997.

Promotion of family planning remains an important goal for the authorities in Tibet, but family planning policies permit ethnic Tibetans, as well as other minority groups, to have more children than Han Chinese. Urban Tibetans are permitted to have two children, and those in rural areas three. In practice, Tibetans working for the Government, especially Communist Party members, are pressured to limit themselves to one child.

The Government maintains tight controls on religious practices. While it allows a number of forms of religious activity in Tibet, it does not tolerate religious manifestations that advocate Tibetan independence or any expression of separatism, which it describes as "splittism." The Government harshly criticizes the Dalai Lama's political activities and leadership of a government-in-exile. The official press continued to criticize vehemently the "Dalai clique" and repeatedly described the Dalai Lama as a "criminal" who was determined to split China, in an attempt to undermine the credibility of his religious authority. Both central government and local officials often insist that dialog with the Dalai Lama is essentially impossible and claim that his actions belie his repeated public assurances that he does not advocate independence for Tibet. Nonetheless, the Government reiterated on numerous occasions that it has channels of communication with the Dalai Lama. During June both President Jiang Zemin and the Dalai Lama expressed readiness for dialog; however, China later rebuffed efforts by the Dalai Lama to begin such a dialog.

Most Tibetans practice Buddhism to some degree. This holds true for many ethnic Tibetan government officials and Communist Party members. Some 1,000 religious figures hold positions in local people's congresses and committees of the Chinese People's Political Consultative Conference. However, the Government, continues to insist that party members and government employees adhere to the party's code of atheism. According to reports, there have been instances of Chinese authorities threatening to terminate Tibetan government employees whose children are studying in India if they did not bring the children back to Tibet.

Buddhist monasteries and proindependence activism are closely associated in Tibet. Throughout the year, the Government expanded its patriotic education campaigns begun in 1996 in three monasteries near Lhasa (Ganden, Sera, and Drepung), to include monasteries throughout the Tibet Autonomous Region, and widened the campaign into Tibetan areas in other provinces. In one ethnically Tibetan area of Sichuan province, five monks who refused to participate in the campaign and organized displays of the Dalai Lama's photographs reportedly were arrested. The campaigns, which have been largely unsuccessful in changing Tibetans' attitudes, are aimed at controlling the monasteries and expelling sympathizers of Tibetan independence and supporters of the Dalai Lama. According to the Dalai Lama, monks are required to be "patriotic" and sign a declaration agreeing to reject independence for Tibet; reject the boy selected by the Dalai Lama as the 11th reincarnation of the Panchen Lama; reject and denounce the Dalai Lama; recognize the unity of China and Tibet; and not listen to the Voice of America. According to some reports, monks who refused to sign were expelled from their monasteries and were not permitted to return home to work. Portraits of the boy selected by the Government to be the Panchen Lama were on prominent display in some monasteries, as were sets of rules governing religious activity. Resistance to the campaigns was intense, and the Government's efforts were deeply resented both by monks and by lay Buddhists, some of whom fled Tibet. Approximately 3,000 Tibetans enter Nepal each year to escape conditions in Tibet, according to the U.N. High Commissioner for Refugees.

According to one NGO, 15 monks were arrested at the remote Rongpo Rabten monastery for staging a proindependence protest during a government-run patriotic education campaign. Western press reports also indicated that the Jonang Kumbum monastery, near Lhasa, was closed, also following a patriotic education campaign. Also according to NGO reports, 49 monks over the age of 60 were forced to retire from the Youning monastery in Qinghai province. Senior monks play a crucial role in the transmission of religious teachings.

Chinese officials state that Tibet has more than 46,300 Buddhist monks and nuns and approximately 1,780 monasteries, temples, and religious sites. This number represents only the figures for the Tibet

Autonomous Region. There are proportionate numbers of monks and nuns in other Tibetan areas of China. However, the Government has moved to curb the proliferation of Tibetan Buddhist monasteries, which it charges are a drain on local resources and a conduit for political infiltration by the Tibetan exile community. The Government generally imposes strict limits on the number of monks in major monasteries; however, these restrictions are not always enforced. Following disturbances in the Ganden monastery near Lhasa in May 1996 and the subsequent campaigns, the number of monks there reportedly decreased from 700 to 500.

The Government continues to oversee the daily operations of major monasteries. Although the Government generally contributes only a small percentage of the monasteries' operational funds, it retains management control of the monasteries through the government-controlled democratic management committees and the local religious affairs bureaus. In April 1996, regulations restricted leadership of management committees of monasteries to "patriotic and devoted" monks and nuns and specified that the Government must approve all members of the committees. Despite these government efforts to control monasteries, antigovernment sentiment remains strong.

The Government continued to insist that the boy it selected and enthroned in 1995 is the Panchen Lama's 11th reincarnation. The boy has appeared publicly in Beijing only on rare occasions and has not been permitted to visit Tibet in over 2 years. In February the boy attended a religious ceremony at a monastery in Beijing. At all other times he was held incomunicado by Chinese authorities. Meanwhile, the Government also continued to detain Gendun Choeyki Nyima, who the Dalai Lama designated the 11th Panchen Lama. The boy's family also was detained. The Government refused to provide access to either of the boys or their families, whose exact locations were unknown. Local authorities say that both boys are being well cared for and receiving a good education, but the Government has not allowed international observers the access necessary to confirm this. The majority of Tibetan Buddhists recognize the boy designated by the Dalai Lama as the Panchen Lama. Tibetan monks have claimed that they were forced to sign statements pledging allegiance to the boy the Government selected as the reincarnation of the Panchen Lama. The party also urged its members to support the "official" Panchen Lama, and the Propaganda Department of the Communist Party Committees at both the regional and city levels had pictures of the boy printed for use in public and private religious displays.

The Government continued to restore Buddhist sites, many of which were destroyed during the Cultural Revolution. The Government has contributed significant sums towards these restoration efforts, in part to promote the development of tourism in Tibet. The monasteries continue to house and train young monks. Although by law monks are prohibited from joining a monastery prior to the age of 16, many younger boys in fact enter monastic life.

In June the European Union issued a report based on the trip of its ambassadorial delegation to Tibet in early May. The report was highly critical of the Government's control of religious freedom and stated that "the delegation was in no doubt that the authorities in the TAR exercise extremely tight control over the principal elements of Tibetan religion and culture."

#### Economic Development and Protection of Cultural Heritage

Tibetans, along with China's 54 other minority ethnic groups, receive preferential treatment in marriage and family planning policies, and, to a lesser extent, in university admissions, and in government employment. Seventy-five percent of all government employees in Tibet are ethnic Tibetans. Nonetheless, most positions of real power are held by ethnic Han, and most key decisions in Tibet are made by Chinese. Although government regulations stipulate that government and legal

documents are to be in Tibetan, in practice written communications by officials and government documents very frequently are in Chinese. In the area of private sector employment, discrimination against Tibetans is widespread.

The central Government and other provinces of China heavily subsidize the Tibetan economy, which has grown by an average annual rate of over 10 percent between 1989 and 1997. Over 90 percent of Tibet's budget income comes from outside sources. Tibet also benefits from a wide variety of favorable economic and tax policies. However, these policies have attracted growing numbers of ethnic Han and Hui (Muslim) immigrants from other parts of China, who are competing with—and in some cases displacing—Tibetan enterprises and labor. Government development policies have helped raise the economic living standards of ethnic Tibetans, but many benefits of development accrue primarily to Han Chinese. For example, in many areas of Lhasa, almost all small businesses are run by Han. Rapid economic growth, the expanding tourism industry, and the introduction of more modern cultural influences also have disrupted traditional living patterns and customs, causing environmental problems and threatening traditional Tibetan culture.

Illiteracy levels are high. The current illiteracy rate for all Tibetans is approximately 40 percent, and in some areas it reaches 80 percent. The Internet has been open to the public just since April. There are a limited number of gateways and only 70 subscribers. Chinese officials have over the past few years downgraded the use of Tibetan in education. Primary schools at the village level teach in Tibetan, but these schools usually have only two or three grades.

According to official statistics, approximately 78 percent of eligible children attend primary school, but most pupils end their formal education after graduating from village schools. The Government announced in 1997 that it would abandon efforts to keep elementary education entirely in Tibetan and begin teaching Chinese to Tibetan children starting in the first grade. The Government stated that this step was taken in order to make Tibetan children more competitive with their Han counterparts, and provide more educational and employment opportunities in the long run. According to local education officials, Tibetan is the main language of instruction in 60 percent of middle schools, although there are special classes offering instruction in Chinese. NGO's maintain that this figure is high. Most, but not all, of the students in these Chinese classes are ethnic Han. Experimental Tibetan middle schools, which had been established in the 1980's, and were reportedly successful, closed down. Most of those who attend regional high schools continue to receive some of their education in Tibetan, but knowledge of Chinese is essential, as most classes are in Chinese. Knowledge of Chinese also is necessary to receive a higher education. Since the mid-1980's, the Government has allocated funds to enable Tibetan secondary students to study in schools elsewhere in China. According to government figures, there are at present 13,000 Tibetan students studying in some 100 schools in different parts of China.

Tibet University is a small university with 1,300 students established to train Tibetan teachers for the local educational system. Ethnic Tibetans resent disproportionate Han representation in the student body and faculty. Tibetans, officially said to constitute approximately 95 percent of the region's population, make up only 80 percent of Tibet University's student body, and 30 percent of all university faculty in the Tibet Autonomous Region. Although Tibetans are given admission preferences, Han Chinese students frequently gain admission because they score higher on admission exams due to stronger Chinese language skills and educational backgrounds. Authorities reportedly require professors, particularly those from Tibet University's Tibetan Language Department, which is viewed as a potential source of dissent, to attend political education sessions and limit course studies and materials in an effort to prevent "separatist" political and religious activity on campus. Many ancient texts are banned for political reasons. The Tibetan Language Department, which was closed

to new students in the fall of 1997, was reopened in 1998 after its curriculum had been purged of religious and "separatist" materials.

The Dalai Lama and Tibetan experts have expressed concern that development projects and other central government policies adopted at a 1994 national work conference on Tibet encourage a massive influx of Han Chinese into Tibet, which has the effect of overwhelming Tibet's traditional culture and diluting Tibetan demographic dominance. In recent years, in Lhasa and other urban areas, freer movement of persons throughout China, government-sponsored development, and the prospect of economic opportunity in Tibet, have led to a substantial increase in the non-Tibetan population (including China's Muslim Hui minority as well as Han Chinese). An increased number of immigrants from China's large transient population seek to take advantage of these new economic opportunities. Most of these migrants profess to be temporary residents, but small businesses run by ethnic Han and Hui citizens (mostly restaurants and retail shops) are becoming more numerous in almost all Tibetan towns and cities. In Lhasa the Chinese cultural presence is obvious and widespread. Buildings are of the Chinese architectural style, the Chinese language is widely spoken, and Chinese characters are used in most commercial and official communications. Some observers have estimated that about one-half of the population in the city is Han Chinese; elsewhere, the Han percentage of the population is significantly lower. In rural areas, the Han presence is often negligible. Chinese officials assert that 95 percent of Tibet's officially registered population is Tibetan, with Han and other ethnic groups making up the remaining 5 percent. This figure does not include the large number of "temporary" Han residents including military and paramilitary troops and their dependents, many of whom have lived in Tibet for years.

China's economic development policies, fueled in Tibet by central government subsidies, are modernizing parts of Tibetan society and changing traditional Tibetan ways of life. Although the Government has made efforts in recent years to restore some of the physical structures and other aspects of Tibetan Buddhism and Tibetan culture damaged or destroyed during the Cultural Revolution, repressive social and political controls continue to limit the fundamental freedoms of ethnic Tibetans and risks undermining Tibet's unique cultural, religious and linguistic heritage.

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